



राजपत्र, हिमाचल प्रदेश

हिमाचल प्रदेश राज्य शासन द्वारा प्रकाशित

शिमला, वीरवार, 10 सितम्बर, 2009/19 भाद्रपद, 1931

हिमाचल प्रदेश सरकार

लोक निर्माण विभाग

अधिसूचना

शिमला-2, 20 नवम्बर 2007

सं० पी०बी०डब्ल्यू० (बी०एफ०(5)48/2007.—यतः हिमाचल प्रदेश के राज्यपाल को यह प्रतीत होता है कि हिमाचल प्रदेश सरकार को सरकारी व्यय पर सार्वजनिक प्रयोजन हेतु गांव ऊना, तहसील ऊना, जिला ऊना में ऊना-अग्घार-मण्डी राज्य उच्च मार्ग के निर्माण हेतु भूमि अर्जित करनी अपेक्षित है, अतएव 'एतद् द्वारा यह घोषित किया जाता है कि निम्नलिखित विवरणी में वर्णित भूमि उपर्युक्त प्रयोजन के लिए अपेक्षित है।

2. यह घोषणा, भूमि अर्जन अधिनियम, 1894 की धारा-6 के उपबन्धों के अधीन इससे सम्बन्धित सभी व्यक्तियों को सूचना हेतु की जाती है तथा उक्त अधिनियम की धारा-7 के अधीन भू-अर्जन समाहर्ता लोक निर्माण विभाग (उ० क्षेत्र) कांगडा को उक्त भूमि के अर्जन करने के आदेश लेने का एतद् द्वारा निदेश दिया जाता है।

3. भूमि रेखांक का निरीक्षण भू-अर्जन समाहर्ता, लोक निर्माण विभाग (उ० क्षेत्र) कांगडा के कार्यालय में किया जा सकता है।

विवरणी

जिला	तहसील	गांव	खसरा न०	रकबा (है०)में
ऊना	ऊना	उप महाल ऊना	474 / 1	64-75
		कुल	किता 1	64-75

आदेश द्वारा,
हस्ताक्षरित / —
सचिव।

LABOUR AND EMPLOYMENT DEPARTMENT

NOTIFICATION

Shimla-2, the 1st September, 2009

No. Sharm (A)7-1/2005(Award).—In exercise of the powers vested in him under section 17(1) of the Industrial Disputes Act, 1947, the Governor, Himachal Pradesh is pleased to order the publication of the following awards announced by the Presiding officer, Labour Court, Shimla in Rajpatra, H.P.—

Sr.No.	Case No.	Title of the Case	Date of Award
1.	121/2003	Salig Ram V/s XEN, HPSEB, Rampur	05-12-2008
2.	77/2005	Gulsher Mohd. & Ors. V/s XEN, HPPWD(B&R) Division, Nahan.	19-12-2008
3.	22/2005	Ganesh Dutt V/s DFO, Rajgarh, Sirmaur	03-12-2008
4.	37/2006	Abdul Gafoor V/s Pr. Secretary (PWD) & Ors.	18-12-2008
5.	170/2006	Devi Ram V/s DFO, Chopal	15-12-2008
6.	326/2003	Dev Raj V/s XEN, HPSEB	15-12-2008
7.	193/2003	Surju Ram V/s Secretary (Forest) & Ors.	04-12-2008
8.	137/1999	Ramesh Kumar V/s Executive Officer, Nagar Parishad, Nahan.	15-12-2008
9.	208/2002	Ram Parkash & Ors. V/s Registrar, Dr. Y.S. Parmar University of Horticulture and Forestry, Nauni, District Solan.	03-12-2008

This supersede the earlier notification of even number, dated 05-05-2009.

By order,
Sd/-
ACS(Labour & Employment).

**IN THE COURT OF JAGMOHAN SINGH MAHANTAN, PRESIDING JUDGE, INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, SHIMLA**

Ref No. 121 of 2003
Instituted on 25-4-2003
Decided on 5-12-2008

Salig Ram S/o Shri Mani Lal R/o Village Besli, P.O Nogli, Tehsil Rampur District Shimla, H.P. ...*Petitioner.*

Versus

The Executive Engineer, HPSEB Division Rampur, District Shimla, H.P.

...*Respondent.*

Reference under section 10 of the Industrial Disputes Act, 1947.

For petitioner : Shri Vijay Bhatia, Ld. Csl.

For respondent : Shri Bhagwan Chand, Ld. Csl.

AWARD

1. The following reference has been received by this Court from appropriate government for adjudication:—

“क्या श्री साजिग राम सपुत्र श्री मनी राम, दैनिक वेतन भोगी बेलदार को अधिशासी अभियन्ता, हि० प्र० राज्य विद्युत बोर्ड मण्डल, रामपुर, जिला शिमला द्वारा मई 1999 से औद्योगिक विवाद अधिनियम, 1947 में दिए गए प्रावधानों की अनुपालना किए बिना नौकरी से निकाला जाना उचित व न्याय संगत है? यदि नहीं, तो कामगार किस राहत, पूर्व वेतन, वरिष्ठता, सेवा लाभों एवं क्षतिपूर्ति का हकदार है?”

2. The petitioner has filed a claim asserting therein that he was engaged as daily wages beldar in the respondent department in the year 1992 alongwith other beldars in HPSEB Sub Division Rampur and the respondent department has given the fictional breaks to the petitioner and the petitioner completed more than 240 days in the calendar year from the date of termination of service and that the petitioner always discharged his duties to the best of his ability and to the entire satisfaction of his superiors. Nothing adverse has been conveyed to him with respect of the performance of his official duties, whose services have been terminated without complying the provisions of the Industrial Disputes Act and that as per the standing order/notification of HPSEB prior to the termination of the services of daily waged beldar, fifteen days or three month notice is required to be given to the petitioner but the respondent department without issuing any notice or compensation, terminated the services of the petitioner and that fresh persons and junior persons were engaged by the respondent department and the petitioner were only ignored by the respondent and as such the action of respondent is patently wrong, void-ab-initio and in utter violation of the provisions of section 25-H of the Industrial Disputes Act and the act of the respondent amounts to unfair labour practice and that the petitioner visited the office of the respondent department number of times and orally requested his illegal retrenchment in utter violation of section 25-H of the Industrial Disputes Act, 1947 but till date the petitioner has not been reengaged in service and that the termination of the petitioner on the ground of non availability of funds and work is false, frivolous and baseless in view of the fact that the respondent has engaged many fresh hands in the employment and that the petitioner is a workman and is entitled for the protections available to the workman under Industrial Disputes Act, 1947 and the respondent is duty bound to comply the provisions of the Industrial Disputes Act before terminating the services of the petitioner and as such prayed for reinstatement in service since the date of termination with full back wages, seniority including other consequential benefits with costs, hence this claim duly supported by an affidavit.

3. The respondent resisted and contested the claim of the petitioner, which filed reply interalia raising preliminary objections of maintainability, estoppel and having no enforceable cause of action in favour of the petitioner and against the respondent. On merits, it is contended that the petitioner had worked with the respondent for a specific work. It is denied that the petitioner was given fictional breaks by the respondent intentionally and the petitioner has completed 240 days in the calendar year from the date of termination of service. The petitioner was firstly engaged w.e.f. 25-12-1997 to 24-1-1998, who worked with the respondent department till 24-5-1999, the mandays chart of the petitioner is annexure RA. The petitioner was engaged for specific work and when the work was available with the respondent, the petitioner was called and after completion of the work, the services of the petitioner automatically came to an end and as such there is no violation of provisions of Industrial Disputes Act, 1947 and that the standing orders/notification of the respondent are not applicable in the present case. The petitioner was engaged with the

respondent w.e.f. 25-12-1997 to 24-5-1999 and during this period, the petitioner was given fictional breaks as the work was not available with the respondent due to this reason, service of the petitioner was not utilized and when the work was available, the petitioner was reengaged w.e.f. 25-12-1997 to 24-1-1998, 25-1-1998 to 24-2-1998, 25-2-1998 to 24-3-1998, 25-11-1998 to 15-12-1998, 10-2-1999 to 20-2-1999 and 12-5-1999 to 24-5-1999 and thereafter there was no work available with the respondent and as such the services of the petitioner automatically came to an end with the completion of the work. It is also denied that the respondent has engaged persons junior to the petitioner and as such prayed for the dismissal of the claim.

4. In the rejoinder, the petitioner controverted the assertions made in the reply and reiterated and reaffirmed the averments of the petition.

5. The following issues were framed by this Court on 19.7.2005 on the pleading of the parties:

1. Whether the termination of services of petitioner by respondent w.e.f May, 1999 without complying the provisions of I D Act, 1947 is proper and justified? ...OPR
2. If issue No.1 is not proved, to what relief of service benefits including full back wages and seniority the petitioner is entitled to? ...OPP
3. Whether the petition is not maintainable as alleged in preliminary objection No.1? ...OPR
4. Whether there is no enforceable cause of action as alleged in preliminary objection No.2?...OPR
5. Whether the present petition is estopped from his own acts, conducts and acquiescence? ...OPR

Relief.

6. I have heard the Ld. Counsels for the parties and have also gone through the record of the case.

7. For the reasons to be recorded hereinafter while discussing the issues for determination, my findings on the aforesaid issues are as under:—

Issue No. 1	Yes
Issue No. 2	Not entitled to any relief.
Issue No. 3	No
Issue No. 4	No
Issue No. 5	No
Relief	Reference answered in Negative per operative part of award

REASONS FOR FINDINGS

Issue No. 1:

8. Coming to issue No. 1, the petitioner examined himself as PW-1, who has stated that he was engaged in the year 1997 by the respondent and worked till 1999, who worked for five to seven months in each year, who was given fictional breaks by the respondent so that he may not complete required period in the calendar year. No notice nor compensation has been paid to him before his removal. His juniors S/Shri Gopal Singh, Gurjeet, Vir Singh, Sadh Ram etc. are engaged after his removal. He met XEN for his reengagement but he was told that he would be engaged as and when the muster roll issued and as such prayed for all service benefits.

9. To rebut the case of the petitioner, the respondent examined Er. M.L Bansal, who has stated that the petitioner was engaged as beldar in December, 1997, who worked till May, 1999. the petitioner abandoned his job in June, 1999 and the mandays chart of the petitioner is prepared on the basis of muster roll, which is Ex. RW-1/A. The petitioner had worked for 99 days in 1997-98 and 21 days in 1999 with breaks as there was no work available and because of that reason breaks were given. The petitioner was not removed from job by the department but he had himself abandoned the job. No notice was given to the petitioner, who was engaged against a specific work which had already been completed.

10. The case of the petitioner is that he being a daily wages labourer having worked for 240 working days in a calendar year and even no notice nor compensation was paid to him at the time of his removal and even juniors to him S/Shri Gopal Singh, Gurjeet, Vir Singh, Sadh Ram etc. are still working with the department and as such he is entitled to be reengaged with seniority and continuity in service along with back wages.

11. On the contrary, the respondent contends that the petitioner has not completed 240 working days in any calendar year preceding his abandonment and even the petitioner was not terminated by the respondent department, who left the job of his own without any intimation to the department and even no junior to the petitioner has been retained by the department. The petitioner was engaged for specific period and for specific work and after the completion of the work his services automatically came to an end and as such his case does not fall under section 25-F of the Industrial Disputes Act, 1947, hence the petitioner is not entitled to any relief as prayed by him.

12. I have considered the respective contention of both the parties and have scrutinized the record of the case.

13. After the close scrutiny of the record of the case and on the basis of the mandays chart Ex. RW-1/A placed on record, it is clear that the petitioner has not completed 240 working days in a calendar year preceding his termination, who worked for 120 days w.e.f. 25-12-1997 to 24-5-1999 with breaks. Apart from it, it is the case of the respondent that the petitioner was engaged for seasonal work and for specific period whose services came to an end with the completion of the work. It is well settled in (2006) 6 SCC 221 *incase titled as Reserve Bank Of India Vs. Gopi Nath Sharma & Another* in which it was held that:—

“Workman not appointed to any regular post but engaged on the basis of need of work on day to day basis, held, had no right to the post.”

14. Apart from it, it was further held in case titled as *Punjab State Electricity Board V. Darbara Singh reported in 2006 LLR 68 SC*. And in case titled as *Municipal Council Samrala V. Sukhwinder Kaur reported in 2006 LLR 1009 SC*. In which it was held that:—

“material on record established that engagement of workman was for specific period and additional as such his termination will be excluded as per the provisions of section 2(oo)(bb) of the I.D Act and hence, no retrenchment compensation will be payable on his termination even when he has worked for more than 240 days in the preceding 12 calendar months.”

Thus, having regard to the above cited rulings and entire evidence on record, it can safely be concluded that the petitioner was engaged for seasonal work and for specific period and on the completion of the work he was removed from service and as such it does not lie in the mouth of petitioner to claim his reengagement on the basis of his previous work with the respondent and even if it is proved on record that the petitioner has completed 240 working days in a calendar year preceding his termination even then he is not entitled to be reengaged in service by giving him the protection under section 25-F of the Industrial Disputes Act, 1947 as it is now well settled principle of law that the appointment made for specific period comes to an end by efflux of time and the person on such post has no right to continue on the post and it does not matter even if he has worked for more than 240 working days in any calendar 12 months preceding his termination. Now turning to the other aspect of the case, the petitioner has tried to establish on record that his juniors are still continuing with the respondent department but there is no official record placed on record which could show that the department has engaged new persons in job after the termination of the petitioner and when they joined and whether they are still continuing with the respondent department. In view of no such evidence on record it cannot be said that the juniors to the petitioner are still working with the respondent department. Obviously therefore, I have no hesitation in coming to the conclusion that the termination of services of petitioner w.e.f. May, 1999 without complying the provisions of section 25-F of the Industrial Disputes Act, 1947 by respondent on the completion of the work is not illegal nor unjustified. Accordingly this issue is decided in favour of respondent and against the petitioner.

Issue No. 2:

15. Since I have held under issue No.1 above, that the termination of services of petitioner by respondent w.e.f. May, 1999 without complying the provisions of Industrial Disputes Act, 1947 is proper and justified as the petitioner was engaged for specific period for specific work and after the completion of the work, he has no right to the post and as such the petitioner is not entitled to any relief as prayed. Accordingly this issue is decided in favour of respondent and against the petitioner.

Issue No. 3:

16. In support of this issue, no evidence was led by the respondents being the legal issue. However, I find nothing wrong with this petition which is perfectly maintainable in the present form, hence the issue No.3 is decided in favour of petitioner and against the respondent.

Issue No. 4:

17. In support of this issue, no evidence was led by the respondent being the legal issue. However, I have scrutinized the record of the case and the petitioner has challenged his termination, hence I hold that the petitioner has enforceable cause of action to file the claim against the respondent, hence issue No.4 is decided in negative.

Issue No. 5:

18. In support of this issue, no evidence was led by the respondents nor it was pressed during the course of arguments. In view of no evidence on record, it can safely be concluded that the petitioner is not estopped from filing the petition by his act, conduct and acquiescence. Accordingly this issue is decided in favour of petitioner and against the respondent.

RELIEF

As a sequel to my above discussion and findings on Issue no.1 to 5, the claim of the petitioner fails and is hereby dismissed and the reference is ordered to be answered accordingly. Let a copy of this award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced in the open court today on this 5th day of December, 2008 in the presence of parties counsels.

By order,
JAGMOHAN SINGH MAHANTAN,
Presiding Judge.

IN THE COURT OF JAGMOHAN SINGH MAHANTAN, PRESIDING JUDGE, INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT, SHIMLA CAMP COURT AT NAHAN

Ref No. 77 of 2005
Instituted on 8-8-2005
Decided on 19-12-2008

1. Gulsher Mohd. S/o Shri Sher Mohd. R/o Nahan near Renuka Hotel, Nahan District Sirmour, H.P.
2. Man Singh S/o Shri Surat Ram, R/o Village Aarwali, P.O Kama, Tehsil Nahan District Sirmour, H.P.
3. Rajesh Kumar S/o Shri Roop Singh R/o Village Kandaiwala P.O Durma Papri, Tehsil Nahan, District Sirmour, H.P.
4. Jasmat Singh, s/o Shri Tota Ram R/o Village Bhegur, P.O Sainwala Tehsil Nahan, District Sirmour, H.P.
5. Hajar ali, s/o Shri Basir Mohd, R/o Village Bogria, P.O Sainwala, Tehsil Nahan, District Sirmour, H.P.
6. Sawarn Kumar S/o Shri Chamel Singh R/o Village Khairwala, P.o Bikarmbag, Tehsil Nahan, District Sirmour, H.P.
7. Roshan lal S/o Shri Ram Rakhu R/o Village Gad Pella P.O & Tehsil Nahan, District Sirmour, H.P.

...Petitioners

Vs.

The Executive Engineer, HPPWD (B& R) division Nahan, District Sirmour, H.P.

...Respondent

Reference under section 10 of the Industrial Disputes Act, 1947.

For petitioners : Shri A.K Gupta, Ld. Csl.

For respondent : Shri Sanjay Pandit, Ld. ADA.

AWARD

1. The following reference has been received by this court from appropriate government for adjudication:—

"Whether the termination of services of 1. Shri Gulsher Mohd S/o Shri Sher Mohd. 2. Shri Man Singh S/o Shri Surat Ram. 3. Shri Rajesh Kumar S/o Shri Roop Singh. 4. Shri Jasmat Singh, s/o Shri Tota Ram. 5. Shri Hajar Ali, s/o Shri Basir Mohd. 6. Shri Sawarn Kumar S/o Shri Chamel Singh. 7. Shri Roshan Lal S/o Shri Ram Rakhu workmen by the Executive Engineer, HPPWD (B&R) division, Nahan District Sirmour, HP w.e.f. October, 1986, August, 1988, July, 1990, Jan. 1989, September, 1984, Feb., 1987 and October, 1986 without complying the provisions of the Industrial disputes Act, 1947 is proper and justified? If not, what relief of service benefits and amount of compensation the above aggrieved workmen are entitled to?"

2. The petitioner Shri Roshan Lal has filed a separate claim asserting therein that he was initially engaged under the respondent as daily waged beldar w.e.f. 1978 till the year 1989 and during the course of service, the applicant has completed more than 240 days in each and every calendar year and even in the preceding 12 months from which date the calculation is to be made and that the respondent dispensed with the services of the applicant without following the procedure as laid down by law and the applicant has been in continuous service under the respondent as per the provisions of section 25-B of the Industrial Disputes Act and as the provisions of section 25-B defining continuing service, the applicant has completed more than 240 days in a calendar year as well as preceding 12 months and that the respondent while dispensing with the services of the applicant did not issue any notice to the applicant as enshrined under section 25-F of the Act nor any retrenchment compensation was paid to the applicant. The respondent also violated the provisions of section 25-H of the Act after the illegal disengagement of the applicant, engaged fresh hands in the employment and that the respondent has violated the section 25-G of the Act by retaining many juniors in preference to the applicant and that the respondent illegally terminated the services of the applicant despite the fact that respondent department has sufficient work available with them and that after the illegal disengagement, the applicant met personally with the authorities of the respondent department for his reengagement by the respondent department but did not pay any heed to the request of the applicant and that the action of the respondent is illegal, wrong and as such prayed for reinstatement with all consequential benefits, hence this claim duly supported by an affidavit.

3. The other petitioners have also filed a joint claim asserting therein that they were engaged as daily waged workmen under the HPPWD Division, Nahan, District Sirmour and their services were disengaged in different years as shown in the reference order and all the applicants have completed 240 days of service in each calendar year prior to the date of their disengagement and even no notice nor any sort of compensation was given to the applicants while disengaging their services which is violative of the mandatory provisions of section 25-F of the Industrial Disputes Act, 1947 and it was mandatory on the part of the respondent to give one month notice as well as compensation under section 25-F of the Industrial Disputes Act, 1947 if the applicants have completed 240 days of presence but the department failed to comply with the mandatory provisions of law and their termination which amounts to retrenchment is nonest in the eyes of law and that as per the Industrial disputes Act, 1947, it was necessary for the respondent to follow the principle of last come first go but the said principle was also not followed and the persons junior to the applicants were retained, when their services were disengaged by the employer and that the provisions of section 25-H of the Industrial Disputes Act, 1947 were not followed by the employer and the new engagements were made after the disengagement of services of the applicants and from the seniority maintained by the respondent, it is clear that the new recruitments were made after the disengagement of the applicants and that the applicants submitted the representations to the employer but nothing happened and that the action of the respondent is highly unjustified, arbitrary, violative of the mandatory provisions of law and to gross unfair labour practice and as such prayed for reinstatement in service with all the benefits incidental thereof such as full back wages and seniority, hence this claim duly supported by an affidavit.

4. The respondent resisted and contested the claim of the petitioners and filed reply interalia raising preliminary objections of maintainability, non joinder of necessary parties, barred by limitation, estoppel and abandonment. On merits, it is contended that since the applicants are not entitled for any relief as such they do not deserve to be reengaged with all the consequential benefits because it would disturb the settled provisions of law and as such there is no violation of provisions of section 25-F and 25-H of the Industrial Disputes Act, 1947 on the part of the respondent and that the services of the applicant (except the applicant at serial no.3) were never retrenched by the

respondent but contrarily they left the job of their own and as such the question of follow the principle of last come first go and others does not arise at all and the working days of the claimants are as under:-

Sr. No.	Name	Years/Days	Years/Days	Years/Days	Years/ Days
1	Gulsher	1984/68	1985/321	1986	
2	Man singh	1985/141	1986/296	1987/100	1988/19
3	Rajesh Kumar	1989/345	1990/188		
4	Jaswant Singh	1986/261	1985/138	1986/314	1987/331, 1988/29
5	Hazir Ali	1979/103	1980/331	1981/312	1982/ 292, 1983, 213
6.	Sarwan Kumar	1984/82	1985/30	1986/116	1987/22

And that all the applicants except applicant at serial no.3 left the job of their own and the persons junior to them have been working regularly and the provisions of section 25-F in the case of the applicants were not possible to be followed as they left the job of their own without assigning plausible and cogent reasons. Moreover, the applicant after their abandonment neither reported back nor represented to the respondent for their reengagement in service and that the applicants never submitted their representation to the respondent and as such prayed for the dismissal of the claim as prayed for.

5. The respondent also resisted and contested the claim of the petitioner Shri Roshan Lal inter alia raising preliminary objections of maintainability, non joinder of necessary parties, barred by limitation and estoppel. On merits, it is contended that since the applicant is not entitled for any relief and as such he does not deserve to be reengaged with all consequential benefits and that the applicant was never retrenched by the respondent but he left the job of his own and as such the question to follow the principles of last come first go does not arise at all and the applicant worked for 10 days in 1977, 40 days in 1978, 48 days in 1979, 94 days in 1985, 232 days in 1986, 130 days in 1987 and 210 days in 1988 and as such the applicant never completed 240 days continuous service in a calendar year and left the job of his own without assigning plausible and cogent reasons and the applicant does not fulfill the essential condition of section 25-B of the Industrial Disputes Act, 1947 and the applicant neither submitted his representation nor met to the respondent and as such prayed for the dismissal of the claim as prayed for.

6. The petitioner Shri Roshan Lal filed the rejoinder wherein he controverted the assertions made in the reply and reaffirmed and reiterated the averments of the petition. No rejoinder on behalf of other petitioners filed.

7. The followings issues were framed by this Court on 3.5.2007 on the pleadings of the parties:

- Whether the services of petitioners were illegally terminated by the respondent without complying with the mandatory provisions of the Industrial disputes Act, 1947? If so its effect? ...OPP
- If issue no.1 is proved in affirmative to what relief the petitioners are entitled to? ...OPP
- Whether the petition is not maintainable in the present form is? ...OPR
- Whether this claim is bad in the eyes of law and on account of the act and conduct of the petitioner? ...OPR
- Relief.

8. I have heard the Learned Counsels for the parties and have also gone through the record of the case.

9. For the reasons to be recorded hereinafter while discussing the issues for determination, my findings on the aforesaid issues are as under:—

Issue No. 1	Partly yes partly no
Issue No. 2	Petitioner no. 1 to 5 are entitled for reinstatement with seniority and continuity in service but without back wages.
Issue No. 3	No
Issue No. 4	No
Relief	Reference partly answered in affirmative per operative part of the award

REASONS FOR FINDINGS.

Issue No. 1:

10. In order to prove this issue, the petitioners have examined PW-1 Shri Hazar Ali, who has stated that he was engaged as beldar in HPPWD division Nahan at Kala Amb road in the year 1979 and continued as such till 1994 and then his services were retrenched without any notice and amount of compensation and as such he wants that he may be reengaged in service with back wages, seniority and continuity in service. After 1983, he worked with private contractor on daily wages, who did not leave the job of his own and whenever he approached the SDO PWD for his reengagement, he refused his request and his colleagues Ram Gopal, Gain Chand are still working with the department and his juniors S/Shri Ramzan, Kishan, Deen Mohd. were engaged by the department but now they are retired and he knows all the petitioners who have been wrongly retrenched by the department without notice and payment of compensation.

11. To rebut the case of the petitioners, the respondent examined Er. Anil Kumar Sharma as RW-1, who has stated that he is posted as an Assistant Engineer, HPPWD Nahan sub division since April, 2006 and is well conversant with the facts of the case. The petitioners were engaged as daily wages beldars by the respondent and petitioner no.1 Gulsher Mohd. has completed 240 days in 1985. The petitioners have not completed 240 working days in any calendar year preceding their abandonment. They never retrenched the services of the petitioners nor the petitioners ever approached him for their reengagement.

12. Shri A.K Gupta, Ld. Counsel for the petitioners has vehemently argued that the petitioners have fully proved on record that the petitioners have been in continuous service of 240 working days in a calendar year preceding their termination. For sake of arguments, it is assumed that if a workman has not been in continuous service under an employer for a period of one year he shall be deemed to have been in such continuous service for a period of one year if he has actually worked under the employer for 240 days in the preceding period of 12 months. There is no stipulation that he should have been in employment or service under the employer for a whole period of 12 months. Shri Gupta has also urged that if a workman had not worked for 240 days in a calendar year preceding his termination, it is not sufficient to deprive him of the retrenchment compensation by ignoring the entire period or in other words it cannot be said that for continuous service for a period of one year, the workman must do and continues to do the same work for which he was engaged of the other work at the same time for a period of 240 days in the preceding 12 months and the condition precedent for invoking section 25-F that the workman ought to have been employed continuously for 240 days under the same employer and it does not mean that he should have completed only 240 working days in a calendar year preceding his termination.

13. On the other hand, Ld. ADA has controverted the arguments of Shri Gupta and has submitted that the case of the petitioners does not fall under section 25-F of the Industrial Disputes Act, 1947 as they did not complete 240 working days in a calendar year preceding their termination.

14. I have considered the respective contention of both the parties and have scrutinized the record of the case.

15. After the close scrutiny of the record of the case, it is admitted by the respondent in its reply under para 6 of preliminary objections that the applicants at serial no. 1 to 5 completed 240 days service during the year (1) 1985, (2) 1986, (4) 1984, 1986 & 1987 and (5) 1980 to 1982 and 1984 respectively but applicant at serial no.6 did not complete his 240 days in any calendar year and applicant at serial no. 3 during the year 1986 (2) 1988, (4) 1989 (5) 1990 (6) 1987 respectively and left the job of their own. Where as the applicant Shri Roshan Lal has not completed 240 working days in any calendar year. The respondent has filed the detail of working days of all the petitioners wherein Shri Gulsher Mohd. has worked for 68 days in 1984, 321 days in 1985 and 223 days in 1986 petitioner Shri Man Singh has worked for 141 days in 1985, 296 days in 1986, 100 days in 1987 and 190 days in 1988 petitioner Shri Rajesh Kumar has worked for 345 days in 1989 and 188 days in 1990 petitioner Shri Jasmat Singh has worked for 261 days in 1984, 138 days in 1985, 314 days in 1986, 331 days in 1987 and 29 days in 1988 petitioner Shri Hazir Ali has worked for 103 days in 1979, 331 days in 1980, 312 days in 1981, 292 ½ days in 1982, 213 days in 1983 and 245 days in 1984 petitioner Shri Sawarn Kumar has worked for 82 days in 1984, 30 days in 1985, 116 days in 1986 and 22 days in 1987 and petitioner Shri Roshan Lal has worked for 10 days in 1977, 40 days in 1978, 48 days in 1979, 94 days in 1985, 232 days in 1986, 130 days in 1987 and 210 days in 1988. From the perusal of mandays chart filed by the respondent with their reply it is clear that petitioners S/Shri Gulsher Mohd., Man Singh, Rajesh, Jasmat Singh and Hazir Ali have worked for more than 240 working days in a calendar year and as such the case of the petitioners no. 1 to 5 falls under section 25-F of the Industrial disputes Act, 1947 and their termination without notice and compensation is bad and illegal.

Section 25-F of the 'Act' provides that:

25-F. CONDITIONS PRECEDENT TO RETRENCHMENT OF WORKMEN.—No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until—

- (a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice;
- (b) the workman has been paid, at the time of retrenchment compensation which shall be equivalent of fifteen days' average pay (for every completed year of continuous service) or any part thereof in excess of six months; and
- (c) notice in the prescribed manner is served on the appropriate government (or such authority as may be specified by the appropriate Government by notification in the Official Gazette.)

But in the instant case, the respondent has not served a notice under section 25-F of the Industrial Disputes Act, 1947 nor paid retrenchment compensation to the petitioners no. 1 to 5 who have completed 240 days of continuous service in a calendar year. It is well settled in case titled as *State of HP & Ors V/s Bhatag Ram & Anr. as reported in latest HLJ 2007 (HP) 903*. in which it was held that :—

“Continuing of 240 days not necessary in 12 calendar month. It is not necessary to workman to complete 240 days during 12 months for taking the benefits of section 25-G & 25-H of the Act.”

16. The perusal of this ruling makes it clear that it is not necessary that the workman must complete 240 working days in a preceding calendar year of his termination. However, if they complete 240 working days in any calendar year preceding their termination that period will be counted for the reckoning of requisite period of total working days to cover their case under section 25 F of the Industrial Disputes Act, 1947. In the instant case, the petitioners no. 1 to 5 have proved on record that they have worked for more than 240 days in a calendar year and obviously therefore, I am of the firm opinion that no notice nor any retrenchment compensation was paid by the respondent to the petitioners and as such, the termination of petitioners no. 1 to 5 is bad for want of notice and compensation under section 25-F of the Industrial Disputes Act, 1947. whereas petitioners S/Shri Sawarn Kumar and Roshan Lal have not completed the required days of 240 in any of the calendar year nor they could prove on record that they completed 240 working days in any calendar year preceding their termination nor they could prove on record that their juniors are still retained by the respondent department, hence their case do not fall under section 25-F, G & H of the Industrial disputes Act, 1947 and as such the petitioners S/Shri Roshan Lal and Sawarn Kumar are not entitled to any relief as prayed for. Accordingly, this issue is partly decided in favour of petitioners no.1 to 5 and against the respondent and petitioner no.6 & 7.

Issue No. 2:

17. Since I have held under issue no.1 above, that the termination of petitioners no. 1 to 5 is in violation of section 25-F of the Industrial Disputes Act, 1947 hence they are entitled for their reinstatement in service with seniority and continuity but without back wages in view of peculiar circumstances of the case whereas the petitioners no. 6 and 7 are not entitled to any relief as prayed as they have failed to prove on record that they completed 240 working days in any calendar year preceding their termination. Accordingly this issue is partly decided in favour of petitioners no. 1 to 5 and against the respondent and petitioner no. 6 & 7.

Issue No. 3:

18. In support of this issue, no evidence was led by the respondent being the legal issue. However, I find nothing wrong with this petition which is perfectly maintainable in the present form. Accordingly the issue is decided in favour of petitioners and against the respondent.

Issue No. 4:

19. In support of this issue no evidence was led by the respondent in order to show that the claim is bad in the eyes of law and also on account of the act and conduct of the petitioners. In view of no such evidence on record on this issue, it can safely be held that the claim petition is not bad in the eyes of law nor on account of the act and conduct of the petitioners. Accordingly, the issue is decided in favour of petitioners and against the respondents.

RELIEF

As a sequel to my above discussion and findings on issue no.1 to 4 above, the claim of the petitioners succeeds partly and is hereby allowed partly and the petitioners no.1 to 5 are ordered to be reengaged with seniority and continuity. However, the petitioners are not entitled to back wages as they have not placed any material on record to substantiate that they were not gainfully employed after their retrenchment while the claim of the petitioners no. 6 and 7 is dismissed as devoid of merits and as such the reference is ordered to be answered accordingly. Let a copy of this award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced in the open court today on this 19th Day of December, 2008 in presence of parties counsels.

By order,
JAGMOHAN SINGH MAHANTAN,
Presiding Judge.

**IN THE COURT OF JAGMOHAN SINGH MAHANTAN, PRESIDING JUDGE, INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, SHIMLA**

Ref No. 22 of 2005
Instituted on 18-2-2005
Decided on 3-12-2008

Ganesh Dutt, S/o Shri Tulsi Ram R/o Village Khojar Nadav, P.O Naina Tikkar, Tehsil Pachhad, District Sirmour, H.P. ...Petitioner

Vs.

The Divisional Forest Officer, Forest Division Rajgarh, District Sirmour, H.P. ...Respondent

Reference under section 10 of the Industrial Disputes Act, 1947.

For petitioner : Shri R.K Khidta, Ld. Csl.
For respondent : Shri R.S Parmar, Ld. ADA.

AWARD

1. The following reference has been received by this Court from appropriate government for adjudication:—

“Whether the termination of services of Shri Ganesh Dutt, S/o Shri Tulsi Ram Ex daily wages beldar by the Divisional Forest Officer, Forest Division Rajgarh, District Sirmour, HP w.e.f. 1.2.89 without complying the provisions of the Industrial Disputes Act, 1947 is proper and justified? If not, what relief of service benefits Shri Ganesh Dutt is entitled to?”

2. The petitioner has filed a claim asserting therein that he was engaged as beldar on daily wages in the month of Feb. 1986 by the respondent in the Forest Sub Division Narag, Division Rajgarh, who worked as such till 31.7.1989 without any break and that the petitioner has completed 240 days in a calendar year and the services of the petitioner have been orally terminated by the respondent without assigning any reason and without complying the mandatory provisions of the Industrial Disputes Act and as such the respondent has violated the provisions of section 25-F, 25-H and 25-N of the Act and that after the oral termination of the services of the petitioner, he visited the office of the respondent number of times and requested to reengage him in job but in vain and then the petitioner submitted the demand notice and that the respondent has also engaged other new persons and retained juniors to the petitioner, who are still working with the respondent and the respondent also violated the principle of last come first go and that the petitioner has every right to continue in the job till the date of superannuation and the petitioner is a poor man and due to the wrongful action of the respondent, the family of the petitioner is at the verge of starvation as there is no source of income in the family of the petitioner and that the petitioner is a workman as defined in the Industrial Disputes Act and the respondent was duty bound to follow the provisions of Industrial Disputes Act while terminating the services of the petitioner as no notice nor any retrenchment compensation was paid to the petitioner by the

respondent and that the termination order passed by the respondent is wholly illegal, unjust, arbitrary and against the principle of natural justice and as such prayed for the reinstatement w.e.f. 1-2-1989 with full back wages, seniority and other consequential service benefits, hence this claim duly supported by an affidavit.

3. The respondent resisted and contested the claim of the petitioner, which filed reply interalia raising preliminary objections that the petitioner has no locus standi and cause of action to file and maintain the petition and that the petitioner has not come to the Court with clean hands, who concealed the real, true and vital facts from the Court. On merits, it is contended that the petitioner was engaged as seasonal daily labourer in the department during the month of July, 1986, who worked for 31 days in 7/89, 16 days in 8/87, 27 days in 9/87, 31 days in 12/87, 15 days in 1/88, 16 days in 1/88, 18 days in 2/88 and 31 days in 1/89 and as such the petitioner has not done the work continuously rather the petitioner has done the work at intervals. It is denied that the petitioner has completed 240 days in a calendar year and the services of the petitioner have been terminated without assigning any reasons and without complying the provisions of the Act. It is denied that the respondent has violated the provisions of section 25-F, H and N of the Act and since the petitioner was engaged as a seasonal daily labourer, hence the question of not giving any reason for terminating the services of the petitioner does not arise at all and that the petitioner has never visited the office of the respondent. It is denied that due to adamant attitude of the respondent, conciliation proceedings failed and that the respondent has not violated the principle of last come first go and since there was no work available with the respondent, so there was no need to call the petitioner and as and when the work is available with the respondent and the budget provided by the Government, the services of the petitioner would be taken seniority wise and that the petitioner has no right to continue in the job till the date of superannuation. It is denied that the termination of the petitioner tantamounts to unfair labour practice and that the petitioner has not completed 240 working days in a calendar year, hence the question of giving any notice or paying any compensation in lieu of notice does not arise at all and that the termination order is totally and perfectly legal, valid and is binding upon the petitioner and the petitioner cannot claim the right of service in any manner and under any provision of law and as such prayed for the dismissal of the claim petition with cost.

4. In the rejoinder, the petitioner controverted the assertions made in the reply and reaffirmed and reiterated the averments of the petition.

5. The following issues were framed by this Court on 26.4.2006 on the pleadings of the parties.

1. Whether the service of the petitioner has been illegally terminated by the respondent w.e.f. 1-2-1989 without complying the provisions of ID Act, 1947? If so, its effect? ...OPP
2. If issue No.1 is proved in affirmative to what relief of service benefits the petitioner is entitled to? ...OPP
3. Whether the present petition is not maintainable? ...OPR
4. Whether the petition is barred by limitation? ...OPR
5. Relief.

6. I have heard the Ld. Counsels for the parties and have also gone through the record of the case.

7. For the reasons to be recorded hereinafter while discussing the issues for determination, my findings on the aforesaid issues are as under:—

Issue No. 1	No
Issue No. 2	Not entitled to any relief
Issue No. 3	No
Issue No. 4	No
Relief	Reference answered in negative per operative part of award

REASONS FOR FINDINGS

Issue No. 1:

8. Coming to issue No.1, the petitioner examined three PWs in all. PW-1 Shri Ganesh Dutt has stated that he was engaged as beldar on daily wages in the month of Feb. 1986 by the respondent in forest range Narag, division Rajgarh and worked as such upto 31-7-1989 without any break, whose services were terminated by the respondent

department w.e.f. 1-8-1989 orally whereas the respondent has admitted his work only till 1-2-1989, who had worked for 240 days during each calendar year of his service. No notice nor compensation was paid to him and the junior persons S/Shri Bhagwan Dutt, Attar Singh and Ganesh Dutt are still working with the department and after his oral termination, he visited the office of respondent many times for his reengagement but all in vain and then he filed the demand notice before the Conciliation Officer but the conciliation failed due to adamant attitude of the respondent. The copy of the demand notice is Ex. PW-1/A. The respondent has not followed the mandatory provisions of ID Act before terminating his services and as such prayed for reinstatement in service w.e.f. 1-2-1989 alongwith all consequential benefits including back wages, seniority and continuity in service.

9. PW-2 Shri Mohi Ram has stated that he was engaged as beldar in 1982 and worked as such till 1985 and then he worked as chowkidar till 1999 and was regularized as chowkidar in 1999, who knows the petitioner, who was engaged as beldar in 1986 and the petitioner worked as such for 3 to 4 years and Shri Attar Singh and Ganesh Dutt are junior to the petitioner and they are still working with the respondent.

10. PW-3 Shri Rajesh Kumar, Range Officer, Narag has stated that Satish was engaged in Jan. 1992, Attar Singh was also engaged in Jan. 1992 and Shri Ganesh Dutt was engaged in 1994 and all of them are still working in the department as per record.

11. To rebut the case of the petitioner, the respondent examined Shri Sunil Kumar, Deputy Ranger Naina Tikkar, who has stated that he is working as Deputy Ranger in forest block Naina Tikkar District Sirmour since 2003. The petitioner was engaged as casual labour in the year 1986 at Nainatikkar, who worked as such till October, 1989, who worked intermittently as per detail given in para-1 of the reply and the employment was given as per muster rolls subject to availability of funds and the work was seasonal and temporary. The petitioner abandoned the job of his own, who was never removed from service by the department and the petitioner has worked for 166 days from 8/86 to 10/89 and as such has not completed 240 working days in calendar year nor in the preceding 12 months when he left the job of his own.

12. The case of the petitioner is that he being the daily wages worker having worked for more than 240 working days in each calendar year and no notice nor compensation was paid to him at the time of his termination and even junior to him are still continuing with the respondent department and as such he is entitled to his reinstatement in service with all consequential benefits including back wages.

13. On the contrary, the respondent contends that the petitioner was engaged as casual labourer for seasonal work which was temporary in nature being specific work for specific period and on the completion of the work, the services of the petitioner automatically came to an end and even the petitioner has not completed 240 working days in any calendar year preceding to his termination, who was not orally terminated by the department but the petitioner abandoned the job of his own, hence there is no necessity to serve any notice. Moreover, no juniors to the petitioner were engaged by the department, hence the petitioner is not entitled to any relief as claimed for.

14. I have considered the respective contention of both the parties and have scrutinized the record of the case.

15. After the close scrutiny of the record of the case, PW-2 Shri Mohi Ram co beldar of petitioner has admitted in cross examination that the petitioner was engaged for seasonal work on necessary and whenever the work was completed, his services were terminated and as such it is clear from the evidence of the petitioner that petitioner was engaged for seasonal work and for specific purpose and for specific period and moreover, the petitioner has not completed 240 working days in any calendar year preceding his termination. Here I am fortified with a view taken by their lordship of *Hon'ble Supreme Court in AIR 2006 S.C. 110 case titled as Surindernagar District Panchyat V/s Dayabhai Amarsingh* in which it was held that:—

“In case workman claims to have worked for more than 10 years as daily wager—Apart from oral evidence workman has not produced any evidence to prove fact that he has worked for 240 days—No proof of receipt of salary or wages or any record or order in that regard was produced: no co-worker was examined; muster roll produced by employer has not been contradicted—Workman has failed to discharge his burden that he was in employment for 240 days during preceding 12 months of date of termination of his service—Workman not entitled for protection of Section 25-F before his service was terminated.”

Apart from it, it was further held in (2006) 6 SCC 221, case titled as *Reserve Bank of India V. Gopinath Sharma & Anr.* In which it was held that :—

“Workman not appointed to any regular post but engaged on the basis of need of work on day to day basis, held, had no right to the post.”

16. Similarly, it was held in (1997)-II SCC 521 case titled as *Escorts Limited Vs. Presiding Officer & Anr.* in which it was held that:—

“Terms of appointment enabling the employer to terminate the services at any stage without assigning any reason. In such circumstances, termination of service under the said terms even though effected before the expiry of the specified period, held, did not amount to retrenchment, hence did not attract section 25-F & 25-G of the Industrial Disputes Act, 1947.”

17. Now, turning to the other aspect of the case as the petitioner tried to establish on record that juniors to him are still continuing with the respondent department. I have scrutinized the statement of petitioner and PW-3 Shri Rajesh Kumar Ranger, Narag has categorically stated in the cross examination that no new people was engaged by the department though he is stated in the examination in chief that Satish, Attar Singh and Ganesh Dutt were engaged in Jan. 1992 and 1994 respectively but it is not disclosed by him as in what capacity they were engaged by the department and therefore no reliance can be placed on his testimony and obviously therefore, it can safely be concluded that no juniors to the petitioner are still continuing with the respondent department as no official record was summoned and proved by the petitioner in order to prove the above named persons to be his juniors nor the seniority list of the workmen has been proved on record. Thus, having regard to entire evidence on record it can safely be concluded that the services of petitioner has not been illegally terminated by the respondent w.e.f. 1.2.1989 without complying with the provisions of Industrial Disputes Act, 1947. Accordingly this issue is decided in favour of respondent and against the petitioner.

Issue No. 2:

18. Since I have held under issue No.1 above, that the services of the petitioner has not been illegally terminated by the respondent w.e.f. 1.2.1989 without complying the provisions of ID Act, 1947. Accordingly, this issue is decided in favour of the respondent and against the petitioner.

Issue No. 3:

19. In support of this issue, no evidence was led by the respondent in order to show as to how this petition is not maintainable. However, I find nothing wrong with this reference which is perfectly maintainable in the present form. Accordingly this issue is decided in favour of petitioner and against the respondent.

Issue No. 4:

20. In support of this issue, no evidence was led by the respondents. However I have scrutinized the record of the case and observed that there is no limitation under the Industrial Disputes Act, 1947 as it was held by their lordship of *Hon'ble Supreme Court reported in (1999) 6 SCC 82 case titled as Ajayab singh Vs. Sirhind Co-operative Marketing –cum- processing Service Society Limited and Another.* In which it was held that:—

“the provisions of Article 137 of Limitation Act, 1963 are not applicable to the proceeding under the ID Act. The relief under the ID Act cannot be denied merely on the ground of delay. The plea of delay if raised by the employer is required to be proved as a matter of fact by showing the real prejudice and not as a merely hypothetical defence. No reference to the Labour Court can be generally questioned on the ground of delay alone”

Accordingly, on the strength of this ruling, it can safely be concluded that there is no limitation under the Industrial Disputes Act, 1947 and as such this issue is decided in negative.

RELIEF

As a sequel to my above discussion and findings on issue No. 1 to 4, the claim of the petitioner fails and is hereby dismissed and as such the reference is ordered to be answered accordingly. Let a copy of this award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records. Announced in the open court today on this 3rd day of December, 2008 in the presence of parties counsels.

By order,
JAGMOHAN SINGH MAHANTAN,
Presiding Judge.

**IN THE COURT OF JAGMOHAN SINGH MAHANTAN, PRESIDING JUDGE, INDUSTRIAL TRIBUNAL-
CUM- LABOUR COURT, SHIMLA CAMP AT NAHAN**

Ref. No. 37 of 2006
Instituted on : 25-11-1997
Decided on : 18-12-2008

Abdul Gafoor S/o Shri Hussan Baux R/o Mohalla Amarpur Nahan, Tehsil Nahan, District Sirmour, HP. Ex-Skilled man HPPWD & IPH State workshop Nahan District Sirmour, HP through Union. ...Petitioner

Versus

1. The State of Himachal Pradesh through the Principal Secretary (PWD) with HQs at Shimla.
2. The Engineer in chief HP PWD U.S Club, Shimla.
3. The Superintendent Engineer, HP PWD and I&PH workshop Nahan.
4. The Executive Engineer, HPPWD and I&PH workshop Nahan District Sirmour, HP. ...Respondents

Reference under section 10 of the Industrial Disputes Act, 1947.

For petitioner : Shri A.K Gupta, Ld. Csl.
For respondent : Shri Rajinder Sharma, Ld. DA.

AWARD

1. The following reference has been received by this court from appropriate government for adjudication:-

"Whether the demand raised vide demand notice dated 7.12.2002 by Shri Salim Ahmed, General Secretary, Nahan Foundry Mazdoor Panchayat State Workshop (Nahan Foundry) Nahan that Shri Abdul Gafoor S/o Shri Hussain Bax skilled worker be promoted as highly skilled workman w.e.f. 1.10.1988 in the pay scale of Rs. 1200-2100 at par with other counter parts is legal and justified? If yes, for what designation/scale and relief the concerned workman is entitled to?"

2. The petitioner has filed the claim alleging therein that he joined as a beldar under the erstwhile Nahan Foundry Ltd. Nahan in the year 1960 and further promoted as semi skilled in the year 1973 and then as skilled in the year 1988 and that the Nahan Foundry Ltd. was taken over by the IPH and PWD departments w.e.f. 1-10-1988 and the employees were given the option either to retain the old scale or to opt for the HP Govt. pay scale and the applicant opted for the HP Govt. pay scale and that in PWD and IPH departments, the Govt. Of Himachal Pradesh issued notification on 9th December, 1976 to the effect that all those workmen who had done ITI and rendered three years of service would be entitled to the higher pay scale and the persons who were non ITI were entitled to the said pay scale after completion of seven years service and the applicant had rendered more than 16 years of service upto the said date and as per the terms and conditions of the take over, the petitioner was entitled to the higher pay scale w.e.f. 9-12-1976 and that one shri Karora Singh and Ors on the similar ground raised the Industrial dispute which was allowed and shri Karora Singh and Ors are far juniors to the applicant and if they have been granted the higher pay scale, the applicant cannot be denied the same benefits and that the action of the respondents in not granting the higher scale to the applicant from the due date is highly unjustified, arbitrary, violative of articles 14 and 16 of the Constitution of India and is not tenable in the eyes of law and as such prayed for the higher pay scale of Rs. 1200-2100 w.e.f. 1-10-1988 and fixation in the revised pay scale etc. with all benefits incidental thereof such as arrears of pay etc. with 9 % interest from the date of entitlement of the same, hence this claim.

3. The respondents resisted and contested the claim filed by the applicant and filed reply interalia raising preliminary objections that the applicant initially served with M/s Nahan foundry Ltd., Nahan which was later on taken over by the Himachal Pradesh State Govt. and redesignated as HPPWD & IPH State workshop w.e.f. 1.10.1988 and the services of the applicant alongwith other employees were taken over by the said workshop. The applicant was working as skilled worker at the time of his retirement dated 31-8-2002 under the administrative control of Executive Engineer, (Mech.) HPPWD and IPH state workshop (Nahan Foundry) Nahan and the Govt. of Himachal Pradesh revised the pay scale of the different posts under various departments on the basis of essential qualifications prescribed in the departmental R&P Rules as per annexure R-3 to R-6 and at this belated stage, the application is time barred and that the applicant was retired from the service vide office order dated 31-8-2002 as skilled worker, who neither referred the matter in accordance with the law to the labour commissioner nor any award in the case has ever been passed by the Court in favour of the applicant and as such is not maintainable. On merits, it is contended that the applicant was

initially appointed by the Management of erstwhile Nahan Foundry Ltd. Nahan as unskilled worker on 1-11-1961, who was promoted to the post of semi skilled worker in the pay scale of Rs. 210-290 vide office order dated 25-3-1977. The petitioner was further promoted to the post of skilled worker on the basis of the test in the pay scale of Rs. 260-400 vide office order dated 17-3-1987. It is admitted that the Nahan foundry was converted into HPPWD & IPH state workshop Nahan w.e.f. 1-10-1988 as per order dated 27-12-1989 issued by the Commissioner –cum- Secretary PWD/IPH to the Govt. of Himachal Pradesh and the services of the applicant were taken over in the said workshop along-with other employees and the applicant including other employees were asked to exercise the option either to retain the old pay scale or to opt for the HP govt. pay scale and the applicant opted for the HP Govt. pay scale and GPF-cum-Pension scheme and the applicant was put in the Himachal Pradesh corresponding pay scale of Rs. 950-1800 as per notification dated 14-5-1990. It is denied that the respondents had violated the rules and the demand of the applicant for higher pay scale of Rs. 1200-2100 is not justified as this higher pay scale is meant for highly skilled worker for which the applicant was in feeder category in the state workshop and that the case of the applicant cannot be treated at par with the case of Shri Karora Singh & Ors as the seniority of the applicant was in different trade, who remained in the same trade till his superannuation and that the applicant is not entitled for higher pay scale of Rs. 1200-2100 because this pay scale is meant for higher skilled category and as such the action of the respondents for not granting the higher pay scale to the applicant was justified and not arbitrary and not violative of articles 14 & 16 of the Constitution of India and as such prayed for the dismissal of the claim as prayed for with interest.

4. No rejoinder filed. The following issues were framed by this Court on 22.6.2007.

1. Whether the demand raised by the petitioner is legal? If so its effect? ...OPP
2. Whether Shri Abdul Gafoor is entitled for the revision of pay scale w.e.f. 1.10.1988? If so its effect? ...OPP
3. Whether the present petition is not maintainable and barred by limitation? ...OPR
4. Relief

5. I have heard the Ld. Counsels for the parties and also gone through the record of the case.

6. For the reasons to be recorded hereinafter while discussing issues for determination, my findings on the aforesaid issues are as under:—

Issue No. 1	Yes
Issue No. 2	Yes
Issue No. 3	No
Relief	Reference allowed per operative part of award

Issue No. 1:

7. Coming to issue no.1, the petitioner has examined himself as PW-1 who has stated that he was fitter and is now retired. Karora Singh & Ors were skilled workers and they have filed the case before this Court by way of reference which was decided in their favour and the benefits has been allowed to karora Singh & Ors. and pay scale of Rs. 1221 was given to them w.e.f. 1988 but the scale was not given to him as he did not file the case. He was also skilled worker like Karora Singh & Ors., who joined Nahan foundry in 1969 as beldar and after 1 ½ years, he was promoted as semi skilled worker and in 1988, who became skilled worker and have completed seven years of service on 9.12.1976 and as such prayed for the benefits as were given to karora Singh & Ors.

8. To rebut the case of the petitioner, Shri A.K Nanda Superintendent, Nahan Foundry, Nahan appeared as RW-1 who has stated that he is posted as Supdt. Since August, 1988 and the petitioner was engaged as an unskilled worker, who retired as skilled worker. There are four categories of workers in their department and the scale which the petitioner is demanding is of the next higher category and similar style of the case has been rejected by the Court on 2nd June, 2006 titled as Brij Mohan Vs. Secy. PWD and the scale which the petitioner is demanding is of high skilled category and the petitioner falls in the feeder cadre for that scale.

9. The case of the petitioner is that he is entitled to higher scale i.e Rs. 1200-2100/- w.e.f. 1.10.1988 when the Nahan Foundry, Nahan was taken over by HPPWD and I&PH departments of HP Government and the date on

which he opted for HP government pay scales. It is also the grouse of the petitioner that the similar petitions were filed in this Court which were allowed and the other semi skilled workers are getting the H.P government pay scale of Rs. 1200-2100/- since 1-10-1988 as is evident from the case of Karora Singh & Anr. V/s The State of HP & Others.

10. On the contrary, the respondents contend that the petitioner is not entitled to enhanced pay scale as he does not fall under that category.

11. After the closed scrutiny of the record of the case, the petitioner Abdul Gafur has specifically stated that he became skilled worker in the year 1988 having experience of seven years is entitled to fall in this category and to claim the pay scale of Rs. 1200-2100/- and the petitioner has opted for the scales of HP State employees since 1.10.1988 when the Nahan Foundry, Nahan was taken over by the PWD & IPH departments, hence the petitioner being skilled worker having experience of more than seven years falls in the category of highly skilled worker and as such he is entitled to be given the pay scale as applicable to other employees i.e Rs. 1200-2100/- w.e.f 1-10-1988 and that on similar proposition, there is settled law by the Hon'ble High Court of *Andhra Pradesh incase titled as ASPE BOARD, HYDERABAD AND OTHERS V/S B. SUBBA REDDY AND ANOTHERS as reported in 1999 (4) SLR-53* in which it was held that:—

“Certain employees of PWD were transferred to State Electricity Department on permanent basis and they were also given the scale of those employees employed earlier by the State Electricity Board on their transfer”.

12. Similarly it was held by the *Punjab & Haryana High Court in case titled as KESHAV DUTT AND OTHERS v. STATE OF HARYANA AND OTHERES reported in 1998(1) SLR 109* in which it was held that:—

“the petitioner filed for grant of revised pay scale as is being paid to the Electricians having 2 years of ITI certificates who were working on the technical posts as the petitioners are holding and are similarly qualified have been given the grade”.

13. It was further held by *Hon'ble Supreme Court in case titled as P. SAVITA AND OTHERS V/S UNION OF INDIA AND OTHERS reported in 1985 (3) SLR-29* in which it was held that:—

“Senior Draughtsman in the Ministry of Defence production the same work and discharging the same functions and duties and classified the Senior Draughtsman in two groups and recommended higher pay scale for one group not on any merit-cum- seniority basis but only on seniority and fitness basis. These Draughtsman cannot be treated differently and amounts discrimination and is hit by Article 14 of the Constitution”.

14. Thus, having regard to the entire evidence on record and the above cited judgments and the fact that the similar petitions were allowed by this Court in which they are entitled to the pay scale of Rs. 1200-2100/- granted w.e.f. 1.10.1988 being the skilled workers at the time of taking over this Nahan Foundry by the department of HPPWD and I&PH and further it is clear that the respondents have discriminated the petitioner in not allowing the pay scale of Rs. 1200-2100/- hence, I am of the firm opinion that the petitioner opted the pay scale of H.P as on 1.10.1988 is entitled to the pay scale of Rs. 1200-2100/- and the demand raised by the petitioner is legal. Accordingly, this issue is decided in favour of the petitioner and against the respondents.

Issue No. :

15. Since I have held under issue no.1 above, that the petitioner is entitled to enhanced pay scale of Rs. 1200-2100/- w.e.f. 1-10-1988 hence, this issue does not require further determination accordingly this issue is decided in favour of the petitioner and against the respondents.

Issue No. 3:

16. In support of this issue, no evidence was led by the respondents in order to show that how the petition is not maintainable and barred by limitation. However, I have scrutinized the record of the case and find nothing wrong with this petition which is perfectly maintainable in the present case and there prescribed no limitation under ID Act. Here I am fortified with a view taken by their lordship of *Hon'ble Supreme Court reported in (1999) 6 SCC 82 incase titled as Ajayab Singh Vs. Sirhind Co-operative Marketing –cum- processing Service Society Limited and Another.*

In which it was held that:

“the provisions of Article 137 of Limitation Act, 1963 are not applicable to the proceeding under the ID Act. The relief under the ID Act cannot be denied merely on the ground of delay. The plea of

delay if raised by the employer is required to be proved as a matter of fact by showing the real prejudice and not as a merely hypothetical defence. No reference to the Labour Court can be generally questioned on the ground of delay alone"

And as such on the strength of this ruling, it can safely be concluded that this petition is not barred by limitation. Accordingly, issue No-3 is decided against the respondents and in favour of the petitioner.

RELIEF

As sequel to above discussion and findings on aforesaid issues, the petition succeeds and is accordingly allowed and as such the petitioner is ordered to be entitled to revised pay-scale of Rs. 1200-2100/- w.e.f. 1-10-1988. Let a copy of this award be sent to the appropriate government for publication in official gazette. File, after completion, be consigned to records.

Announced in the open court today on this 18th Day of December, 2008 in the presence of parties counsels.

By order,
JAGMOHAN SINGH MAHANTAN,
Presiding Judge.

IN THE COURT OF JAGMOHAN SINGH MAHANTAN, PRESIDING JUDGE, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, SHIMLA

Ref No. 170 of 2006
Instituted on. 1-12-2006
Decided on 15-12-2008

Devi Ram S/o Shri Ghau Ram, r/o Village Sherti, P.O Malat, Tehsil Chopal, District Shimla HP.

...Petitioner

Vs.

The Divisional Forest Officer, Forest Division Chopal, District Shimla, HP.

...Respondent

Reference under section 10 of the Industrial Disputes Act, 1947.

For petitioner : Shri R.K Khidtta, Ld. Csl.
For respondents : Shri R.S Parmar, Ld. ADA.

AWARD

1. The following reference has been received from appropriate government by this Court for adjudication:—

“Whether the termination of services of shri Devi Ram S/o shri Ghau Ram workman by the Divisional Forest Officer, Forest Division, Chopal, District Shimla HP w.e.f. 21.8.2002 without complying the provisions of Industrial Disputes Act, 1947 is proper and justified? If not, what relief of service benefits and amount of compensation the above aggrieved workman is entitled to?”

2. The petitioner has filed a claim asserting therein that he was engaged as chowkidar on daily wages basis by the respondent department w.e.f. 21-4-1991 in Dhia range and worked as such till 21-8-2002 whose services have been terminated orally by the respondent department w.e.f. 21-8-2002 and that the petitioner after oral termination of his services by the respondent visited the office of the Divisional Forest Officer number of times and also given in writing to the department but nothing has been done by the respondent department and then the petitioner filed the demand notice before the Conciliation Officer which is Annexure P-3 and that the petitioner has completed 240 days in a calendar year and the services of the petitioner have been orally terminated by the respondent without assigning any reason with without complying the mandatory provisions of Industrial Disputes Act, 1947 and that the respondent department has engaged new persons and the petitioner has not been reengaged by the department and even juniors to the petitioner S/Shri Dai Ram, Sumesh Chand, Sant Ram, Mast Ram, Basi Ram, Juhia Ram and Sita Ram are still

working with the respondent department and the respondent has terminated the services of the petitioner without following the principle of last come first go and that the petitioner has every right to continue in the job till the date of superannuation as the termination of the petitioner tantamounts to the unfair labour practice of which the petitioner is a victim and the action of the respondent department is against the provisions of Industrial Disputes Act, 1947 and that the petitioner is a workman as defined in the Industrial Disputes Act, who has completed 240 days in calendar year and the respondent department was duty bound to follow the provisions of Industrial Disputes Act as well as principle of natural justice and the oral termination order as passed by the respondent is wholly illegal, unjust and arbitrary as while terminating the service of the petitioner, the respondent department has not served any notice under the Industrial Disputes Act nor paid retrenchment compensation at the time of his termination and as such prayed for reinstatement w.e.f. 21-8-2002 with all consequential service benefits including seniority, continuity and full back wages, hence this claim duly supported by an affidavit.

3. The respondent resisted and contested the claim of the petitioner, which filed reply inter alia raising preliminary objections of maintainability and that the forest department is not an Industry and as such does not fall within the definition of Industry under the provisions of Industrial Disputes Act and that the employment in the government department is governed by the statutory rules framed under the Constitution of India and any kind of deviation from the same shall amount to recruitment through back door entry against the spirit of the Constitution and that the claim petition of the petitioner is bad in the eyes of law as the same has raised the highly disputed question of law and facts and estoppel. On merits, it is contended that the petitioner was engaged as worker since 1991 in Malat Beat of Deya Forest range. It is denied that the services of the petitioner were terminated by the department w.e.f. 21-8-2002 as the petitioner worked with respondent department as a casual labourer from time to time on seasonal works after 21-8-2002, who worked for 49 days in 1991, 14 days in 1992, 103 days in 1993, 62 days in 1994, 144 days in 1995, 120 days in 1996, 85 days in 1997, 144 days in 1998, 245 days in 1999, 127 days in 2000, 178 days in 2001, 139 days in 2002, 90 days in 2003 and 31 days in 2004 and that the petitioner has never been terminated from forestry works. It is admitted that the petitioner made representations to the office for his engagement on permanent basis which is never possible because forestry works are seasonal in nature like plantation activities, fire protection etc. and daily wages workers are engaged at range level to carry out all these seasonal operations according to the approved budget allotted to the concerned range and the range office cannot exceed his budget allotment and that the petitioner has never completed 240 days in calendar year continuously, hence the respondent has not violated the provisions of Industrial Disputes Act, 1947 and that the persons had to be engaged to cope with the requirement of work in different beats but as the petitioner wanted permanent job which was not possible whereas other persons continued their job as per the requirement of the department and never insisted for their regularization as the petitioner did and as such they are still in the job and that the services of the petitioner were co-terminus with the availability of work and funds but as revealed from the representation made to the department, the petitioner wanted the permanent job, which was not possible on account of which the petitioner ultimately abandoned the job and as such prayed for the dismissal of the claim petition as prayed for.

4. In the rejoinder, the petitioner controverted the assertions made in the reply and reiterated and reaffirmed the averments of the petition.

5. The following issues were framed by this Court on 23-10-2007 on the pleading of the parties:

1. Whether the services of the petitioner has been illegally terminated without complying with the provisions of Industrial Disputes Act, 1947? If so, its effect? ...OPP
2. If issue No. 1 is proved in affirmative, to what relief the petitioner is entitled to? ...OPP
3. Whether the claim is not maintainable as the claimant was engaged for seasonal work only?...OPR
4. Relief

6. I have heard the Ld. Counsels for the parties and have also gone through the record of the case.

7. For the reasons to be recorded hereinafter while discussing issues for determination, my findings on the aforesaid issues are as under:—

Issue No. 1	Yes
Issue No. 2	Entitled to reinstatement in service with seniority and continuity but without back wages
Issue No. 3	No
Relief	Reference answered in affirmative per operative part of award

REASONS FOR FINDINGS.

Issue No. 1:

8. Coming to issue No.1, the petitioner has examined two PWs in all. PW-1 Shri Devi Ram has tendered his affidavit in his evidence which is Ex. PA, application for reengagement to the department is Ex. PB, application to MLA Raja Yogender Chand is Ex. PC and demand notice is Ex. PD.

9. PW-2 Shri Dulla Ram, Deputy Ranger, Dhaia Range has stated that he brought the summoned record and according to record, Shri Dhaia Ram joined as beldar on 1-7-1998, Sumesh Chand joined as beldar on 21-9-1997, Sant Ram joined as beldar on 21-9-1999, Mast Ram joined as beldar on 21-10-1995, Bansi Lal joined as beldar on May, 1987 and Juhia Ram joined as beldar on May, 1987 and they are also working as chowkidar besides beldar. S/Shri Bansi Lal, Juhia Ram, Sita Ram and Sumesh Kumar are made regular.

10. To rebut the case of the petitioner, the respondent examined Shri Jagdish Chand, Forest Range Officer, Dehia Range as RW-1, who has stated that the petitioner was engaged as a daily wages beldar with the respondent at Malat beat Dehia Range for seasonal work and for specific period from time to time on 5/1991, who worked as such till March, 2004 and then the petitioner abandoned the job of his own. The department has not terminated the services of the petitioner.

11. The case of the petitioner is that he being the daily wages beldar had worked for more than 240 working days in a calendar year, who was never served with any notice nor paid retrenchment compensation before his termination and his juniors are still working in the department and as such he is entitled to be reinstated in service along with all consequential benefits including back wages.

12. On the contrary, the respondent contends that the petitioner was engaged for seasonal and for specific work which is temporary in nature and on the completion of the work the services of the petitioner automatically came to an end, who was never retrenched by the department who left the work of his own and even no junior to the petitioner is still working with the respondent department and as such the petitioner is not entitled to any relief as claimed by him.

13. I have considered the respective contention of both the parties and have scrutinized the record of the case.

14. After the close scrutiny of the record of the case, it is admitted case of the respondent that the petitioner has completed 245 days in the year 1999 but the petitioner has not completed 240 working days in a calendar year preceding his termination, hence the case of the petitioner does not fall under section 25-F of the Industrial Disputes Act, 1947.

15. Now adverting to the other aspect of the case, the petitioner has proved on record that his juniors are still working with the department as PW-2 Shri Dulla Ram Deputy Ranger Dahia Range Chopal Division has stated on oath that Shri Deya Ram joined as beldar on 1-7-1998, Sumer chand on 21-9-1998, Sant Ram on 21-9-1999, Mast Ram on 21-10-1995, Bansi Lal and Juhia Ram joined as beldar on May, 1987 and they are also working as Chowkidar besides beldars and S/Shri Bansi Lal, juhia Ram, Sita Ram and Sumesh Kumar are made regular whereas the RW-1 Jagdish Chand Forst Range Officer Deyea has deposed that the petitioner was engaged as a daily wages beldar with the respondent at malat Beat on 5/1991 who worked as such till March, 2004 and as such it is clear that Deya Ram, Sumesh Chand, Juhia Ram, Mast Ram beldars are juniors to the petitioner who are still continuing with the respondent department and as such the respondent has violated the provisions of section 25-G & H of the Industrial Disputes Act, 1947 by retaining the juniors to the petitioner in the job. Here I am fortified with a view taken by our own **Hon'ble High Court in CWP No. 555 of 2007 dated 12.9.2007 incase titled as Vijay Kumar Vs. The Executive Engineer & Anr.** in which it was held that:—

“Where the employer had retained the persons junior to the petitioner, namely Med Ram and Sunil Kumar, thus violating the provisions of section 25-G of the Act.”

Similarly, in another case titled as *State of Haryana Vs. Dilbagh Singh as reported in 2007 LLR 72 SC* in which it was held by the Hon'ble Supreme Court that:—

“Where Labour Court found that person junior to respondent was still working and thus there was breach of section 25-G and 25-H of the Act and the court directed reinstatement in service.”

Thus, on the strength of these rulings and having regard to the fact that the petitioner has put in more than 240 working days in a calendar year 1999 only and his juniors are still continuing with the respondent and as such I have no hesitation in coming to the conclusion that the retrenchment of the petitioner w.e.f. 21-8-2002 by respondent is improper, illegal and unjustified. Accordingly, this issue is decided in favour of petitioner and against the respondent.

Issue No. 2:

16. Since I have held under issue no.1 above, that the service of the petitioner has been illegally terminated by the respondent w.e.f. 21-8-2002 without complying the provisions of the I.D Act, 1947, hence the petitioner is held entitled for his reinstatement in service with seniority and continuity from the date of reference but without back-wages in view of the peculiar circumstances of the case. Accordingly, issue no.2 is decided in favour of the petitioner and against the respondent.

Issue No. 3:

17. In support of this issue, the respondent has examined Jagdish Chand Forest Range Officer Deyea as RW-1 in order to show that the petitioner was engaged as a daily wager beldar with the respondent at Malat Beat for seasonal work and for specified period in May, 1991 who worked till March 2004 but his statement is not corroborated by any witness nor by any official record. It is significant to note that there is no official document on record which could show that the petitioner was engaged for seasonal and for specific work. In view of no such evidence on record and having regard to the fact that the juniors of the petitioner are still continuing with the respondent, it can safely be concluded that the petition is perfectly maintainable and the petitioner was not engaged for seasonal work especially when it is proved on record that his juniors are still continuing with the respondent department and even made regular by the respondent. Accordingly, this issue is decided in favour of the petitioner and against the respondent.

RELIEF

As a sequel to my above discussion and findings on issue No. 1 to 3 above, the claim of the petitioner succeeds and is hereby allowed and as such the petitioner is ordered to be reinstated forthwith along-with seniority and continuity in service from the date of termination. However, the petitioner is not entitled to back wages as he has not placed any material on record to substantiate that he was not gainfully employed after his retrenchment and as such the reference is ordered to be answered accordingly. Let a copy of this award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced in the open court today on this 15th day of December, 2008 in the presence of parties counsels.

By order,
JAGMOHAN SINGH MAHANTAN,
Presiding Judge.

**IN THE COURT OF JAGMOHAN SINGH MAHANTAN, PRESIDING JUDGE, INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, SHIMLA**

Ref No. 326 of 2003
Instituted on 24-11-2003.
Decided on 15-12-2008

Dev Raj, S/o Shri Maan Singh R/o Village Dholar, P.O Mandhala, Tehsil Kasauli, District Solan, HP.

...Petitioner

Versus

1. The Executive Engineer, HP state Electricity Board, Electrical Division Parwanoo, District Solan, HP
2. The Secretary HPSEB Shimla-2.
3. The Sub Divisional Officer, HPSEB Electrical Sub Division Barotiwala, District Solan, HP.

...Respondents

Reference under section 10 of the Industrial Disputes Act, 1947.

For petitioner : Shri R.K Khidtta, Ld. Csl.
For respondent : Ms. Sharmila Patiyal, Ld. Csl.

AWARD

1. The following reference has been received from appropriate government by this Court for adjudication:-

“क्या श्री देव राज पुत्र श्री मान सिंह को अधिशासी अभियन्ता, हि० प्र० राज्य विद्युत (ई) मण्डल परवाणु द्वारा दिनांक 26-11-1996 को औद्योगिक विवाद अधिनियम, 1947 के प्रावधानों की पालना किये बिना नौकरी से निकालना वैध है अथवा अवैध? यदि अवैध है तो श्री देव राज किस राहत एवम् क्षतिपूर्ति का हकदार है?”

2. The petitioner has filed a separate claim asserting therein that he was engaged as beldar on daily wages by the respondent board w.e.f. 26.12.1989 and worked as such till 26-11-1996 under the Sub Divisional Officer Electrical Sub Division Barotiwala without any break and that the petitioner has completed 240 days in a calendar year and the services of the petitioner has been orally terminated by the respondent w.e.f. 27-11-1996 without assigning any reasons and without complying the provisions of Industrial Disputes Act as well as their own standing order, hence the respondents have violated the mandatory provision of Industrial Disputes Act as well as their standing orders and that after the oral termination, the petitioner visited the office of the respondents no.1 & 2 number of times and requested to reengage him in job but all the time he was assured that he would be called back in job and due to the assurance given by the respondents, the petitioner waited for more than five years but ultimately he was forced to submit demand notice to the Labour-cum- Conciliation Officer Solan in the month of May, 2002 and that the conciliation proceeding failed due to the adamant attitude of the respondents and that the respondents have violated the principle of last come first go as the junior to the petitioner namely S/shri Bhadhur Singh, Diwan Chand, Baldev Ram and Madan Lal are still working in the board and their services have been regularized by the respondents whereas these persons are very junior to the petitioner and as such the respondents have violated the provisions of section 25-G and 25-F of the Industrial Disputes Act and even no notice nor any compensation was paid to the petitioner and that the petitioner has every right to continue in job till the date of superannuation and the termination of the petitioner in the aforesaid manner tantamounts to unfair labour practice of which the petitioner is a victim and the action of the respondent board is against the provisions of the Industrial Disputes Act and their own standing orders and that the petitioner is a very poor man and due to the wrongful act on the part of the respondent board, the family of the petitioner is at the verge of starvation as no other family member of the petitioner is in the government job and that the petitioner is a workman as defined in the Industrial Disputes Act and has completed 240 days in the preceding calendar year and that the impugned oral termination order passed by the respondent is wholly illegal, unjust and arbitrary, hence deserves to be quashed and set aside and as such prayed for reinstatement in service with all consequential benefits along with back wages, hence this claim.

3. The respondent resisted and contested the claim of the petitioner, which filed reply raising preliminary objections of maintainability, having no enforceable cause of action in favour of the petitioner and against the respondents and that the claim petition is time barred. On merits, it is contended that the petitioner was engaged as daily wages beldar w.e.f 26-12-1989 on short duration for temporary nature of work available with the respondent with certain interruptions as shown in annexure RA-1 and the services of the petitioner had never been terminated/retrrenched by the respondents rather he left the job of his own accord and will. However as and when the applicant approached the respondents for his reengagement, he was engaged which is evident per annexure RA-1 and as such the petitioner is not entitled to any relief. It is admitted that though the petitioner has completed 240 days during 1990, 1991 and 1994 but every time the petitioner himself absented from duties at his own will and accord. Since the petitioner had abstained from duty at his own accord then the principle of last come first go as well as to pay retranchment compensation is also not attracted and that the petitioner was engaged as beldar on daily wages on 26-12-1993 with certain interruptions and breaks and left the job at his own will and during 1/1994 the petitioner again approached to the respondent for his reengagement and he was reengaged on 26-1-1994 who worked upto 25-2-1995 and abstained from duty w.e.f. 26-12-1995 at his own will and then the petitioner approached to the respondent for his reengagement after a lapse of one year and the petitioner was reengaged on 1-6-1996 who worked as such upto 25-11-1996 and then he left the job of his own and that the petitioner left the job at his own every time and as and when he approached for his reengagement with the respondents he was reengaged but the petitioner did not approach for his reengagement after 25-11-1996 and filed the case before Labour Officer Solan for which the reply has already been filed in Labour Office Solan which is annexure RA-1. It is admitted that S/Shri Bahadur Singh, Diwan Chand, Baldev Ram and Madan Lal remained continued in their job, hence they were regularized and the services of the petitioner were never terminated/retrrenched by the respondent, who himself abandoned his job. The petitioner completed 240 days service during the calendar year 1990, 1991 and 1994 but every time he left the job of his own and thus the respondent never violated the articles 14-16 of constitution of India nor committed any unfair labour practice and that the petitioner did not approach for his reengagement after 26.11.1996 and since the petitioner himself responsible for loosing his job, hence no violation of standing orders framed by the Board has been done by the respondent and that as

and when the petitioner approached for his reengagement, the petitioner was engaged. The petitioner himself abstained from duty as such no notice was required to serve upon the petitioner as he himself abandoned his job, hence the principle of last come first go as well as to pay the retrenchment compensation is not attracted and as such prayed for the dismissal of the claim as prayed for.

4. In the rejoinder, the petitioner controverted the assertions made in the reply and reiterated and reaffirmed the averments of the petition.

5. The following issues were framed by this Court on 7-1-2005 on the pleading of the parties:

1. Whether termination of petitioner w.e.f. 26-11-1996 by the respondent is legal and justified? ...OPR
2. If issue no.1 is not proved, to what relief of service benefits including back wages and allied service benefits, the petitioner is entitled to? ...OPP
3. Whether the petition is not maintainable as alleged in preliminary objection? ...OPR
4. Relief.

6. I have heard the Ld. Counsels for the parties and have also gone through the record of the case.

7. For the reasons to be recorded hereinafter while discussing issues for determination, my findings on the aforesaid issues are as under:—

Issue No. 1	No
Issue No. 2	Entitled to reinstatement in service with seniority and continuity but without back wages.
Issue No. 3	No
Relief	Reference answered in affirmative per operative part of award.

REASONS FOR FINDINGS

Issue No. 1:

8. Coming to this issue, the petitioner has examined two PWs in all. PW-1 Shri Dev Raj has stated that he was engaged as beldar by the respondent w.e.f. 26-12-1989 and worked as such upto 26-11-1996 continuously whose services were orally terminated by the respondent w.e.f. 27-11-1996, who have completed 240 days during each calendar year of his service and no notice nor retrenchment compensation was paid to him and after his termination, he visited the office of the respondent several times for reengagement but to no avail, who used to visit for his reengagement after 1-2 months and then he filed the demand notice which is Ex. PW-1/A. Juniors to him s/Shri Bahadur Singh, Diwan Chand, Baldev Ram and Madan Lal are still working with the respondent whose services have been regularized by the board and Shri Madan Lal has expired 5-6 months back and after his termination, he is unemployed and the working shown by the respondents in their reply are not correct and as such prayed for reinstatement in service alongwith all consequential benefits including full back wages.

9. PW-2 Shri Balwan Singh has stated that he knows the petitioner who was engaged as beldar by the Electricity Board in 1989 and worked under Electric Sub Division Barotiwala and when he joined the respondent Board, the petitioner was already working, who worked till the year 2001 with the respondents and the petitioner has worked with him from 1990 to November, 1996 continuously. It is not out of place to mention here that these witnesses were not cross examined by the respondents and the evidence of the petitioner remained unshattered.

10. To rebut the case of the petitioner, the respondent examined Er. J.S Rana as RW-1, who has stated that he is posted as an Executive engineer, HPSEB Barotiwala since 11th April, 2008. The petitioner was engaged as daily wages beldar with the HPSEB Sub Division Barotiwala on 26.12.1989, who continued as such till 25.11.1996 and then, the petitioner abandoned the job of his own and proved the mandays chart of the petitioner Ex. RA. The respondent never retrenched the petitioner from job.

11. The case of the petitioner is that he being a daily wages beldar having worked for 240 working days preceding his termination, who was retrenched from service without any notice nor paid any compensation and even his juniors are still continuing with the respondent department and as such he is entitled for the protection of section 25-F, 25-G and 25-H of the Industrial Disputes Act, 1947.

12. On the other hand, the respondents contend that the petitioner was never retrenched by the department, who himself abandoned the job, hence the petitioner is not entitled to any relief as prayed for.

13. I have considered the respective contention of both the parties and have scrutinized the record of the case.

14. After the close scrutiny of the record of the case and on the basis of the mandays chart Ex. RA placed on record, it is clear that the petitioner has not completed 240 working days in a calendar year preceding his termination, who has completed 240 days during the calendar year 1990, 1991 and 1994 and even the respondents have admitted in their reply that the petitioner has completed 240 working days. It is amply proved on record that the petitioner has completed more than 240 working days in the calendar year 1990, 1991 and 1994 but the petitioner has not completed 240 working days in a calendar year preceding his termination nor 12 months preceding his termination.

15. Now, advertent to the other aspect of the case, the petitioner has further proved on record that juniors to him are still continuing with the respondent and even RW-1 Er. J.S Rana has admitted in his cross examination that S/Shri Bahader Singh, Diwan Chand, Baldev Ram and Madan Lal are the juniors to the petitioner, who are still working with the respondent and as such it is clear that the respondents have retained the juniors to the petitioner ignoring the seniority of the petitioner which is clear violation of section 25-G and 25-H of the Industrial Disputes Act, 1947. Here I am fortified with a view taken by our own *Hon'ble High Court in CWP No. 555 of 2007 dated 12.9.2007 incase titled as Vijay Kumar Vs. The Executive Engineer & Anr.* in which it was held that:—

“Where the employer had retained the persons junior to the petitioner, namely Med Ram and Sunil Kumar, thus violating the provisions of section 25-G of the Act.”

Similarly, in another case titled as *State of Haryana Vs. Dilbagh Singh as reported in 2007 LLR 72 SC* in which it was held by the Hon'ble Supreme Court that:—

“Where Labour Court found that person junior to respondent was still working and thus there was breach of section 25-G and 25-H of the Act and the court directed reinstatement in service.”

Thus, on the strength of these rulings and having regard to the fact that the petitioner has put in more than 240 working days in a calendar year 1990, 1991 and 1994 and his juniors are still continuing with the respondent and as such I have no hesitation in coming to the conclusion that the retrenchment of the petitioner w.e.f. Feb. 1986 followed by final termination of his services w.e.f. 26-11-1996 by respondent is illegal and unjustified. Accordingly, this issue is decided in favour of petitioner and against the respondent.

Issue No. 2:

16. Since I have held under issue no.1 above, that the service of the petitioner has been illegally terminated by the respondent w.e.f. 26-11-1996 without complying the provisions of I.D Act, 1947, hence the petitioner is held entitled for his reinstatement in service with seniority and continuity from the date of reference but without back-wages in view of the peculiar circumstances of the case. Accordingly, issue No.2 is decided in favour of the petitioner and against the respondent.

Issue No. 3:

17. In support of this issue, no evidence was led by the respondent nor it was pressed during the course of arguments. However, I have scrutinized the record and I find nothing wrong with the petition which is perfectly maintainable in the present form. Accordingly issue No. 3 is decided in favour of the petitioner and against the respondents.

RELIEF

As a sequel to my above discussion and findings on issue No. 1 to 3 above, the claim of the petitioner succeeds and is hereby allowed and as such the petitioner is ordered to be reinstated forthwith along-with seniority and continuity in service from the date of reference. However, the petitioner is not entitled to back wages as he has not

placed any material on record to substantiate that he was not gainfully employed after his retrenchment and as such the reference is ordered to be answered accordingly. Let a copy of this award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced in the open court today on this 15th day of December, 2008 in the presence of parties counsels.

By order,
JAGMOHAN SINGH MAHANTAN,
Presiding Judge.

IN THE COURT OF JAGMOHAN SINGH MAHANTAN, PRESIDING JUDGE, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, SHIMLA.

Ref No. 193 of 2003
Instituted on 2-7-2003
Decided on 4-12-2008

Surju Ram, S/o Shri Rulku Ram R/o Village & P.O Mandhol, Tehsil Jubbal, District Shimla, H.P.

...Petitioner

Versus

1. State of Himachal Pradesh through Secretary (Forest) to the Govt. of H.P. Shimla-2.
2. Principal Chief Conservator of Forest, Taland Shimla-2.
3. Divisional Forest Officer, Jubbal, Forest Division Shimla, H.P.
4. Deputy Ranger Sheel Block, Jubbal, Forest Division Shimla, H.P.

...Respondents

Reference under section 10 of the Industrial Disputes Act, 1947.

For petitioner : Shri Parkash Chand, Ld. Csl.

For respondents : Shri Sudeep Singh, Ld. ADA.

AWARD

1. The following reference has been received by this Court from appropriate government for adjudication:—

“क्या श्री सुरजू राम सपुत्र श्री रूलकू राम, दैनिक वेतन भोगी बेलदार को मण्डलीय वन अधिकारी जुबल वन मण्डल, शिमला द्वारा दिनांक 30-4-2003 से औद्योगिक विवाद अधिनियम, 1947 में दिए गए प्रावधानों की अनुपालना किए बिना नौकरी से निकाला जाना उचित व न्याय संगत है? यदि नहीं तो कामगार किस वरिष्ठता, सेवा लाभों, राहत एवं क्षतिपूर्ति का पात्र है?”

2. The petitioner has filed a claim asserting therein that he was working on daily wages basis as beldar w.e.f. 1-6-1984, who was engaged at Sheel Block in Jubbal Range under Jubbal Forest Division, who was discharging the duties of watch and ward of the plantation and that the petitioner was allowed to work continuously till 30th April, 1997 when his services were orally terminated on the point that there is no work available with the respondent and he would be intimated as and when the work would be available and that the petitioner submitted to the department that he had already completed more than 10 years of service on daily wages basis by putting in more than 240 days in every year and as such he was entitled to be regularized as beldar as per the policy of the government and that the department had assured that his case of regularization would be considered and his name would be submitted to the higher authorities and the name of the petitioner appeared at serial no. 3 in the seniority list which is annexure A-1 and that on the assurance, the petitioner waited for the intimation from the department regarding his reengagement, who did not raise any dispute before any Forum and the petitioner continuously contacted the department but to no avail and the petitioner came to know that the department has sent the seniority list of daily paid workers to the Conservator of Forest, Shimla vide no. 2732 dated 20-12-1997 wherein the names of the persons, who have completed 240 days in every calendar year have been indicated and in the seniority list the name of the petitioner is appearing at serial no.7 and the petitioner is shown to have worked in the department since 1.6.1984. However a note has been appended to the seniority list, wherein it is pointed out that the petitioner has left the work from this Division w.e.f. 4/97 but the petitioner had never left the job, who was asked not to attend the work by the department and that in the seniority list, the department has admitted that the petitioner had continuously worked from 1.6.1984 onwards and had thus

completed more than ten years of service and that on the basis of seniority list submitted by the department, the petitioner came to know that the department has regularized the persons mentioned in the seniority list in Jan./Feb, 1998 except the petitioner and two other persons and that no notice of termination/retranchment was served upon the petitioner after 30.4.1997, when the petitioner was asked not to come on duty on the ground that there was no work available for him with the department and as such the disengagement of the petitioner would amount to retranchment under the provisions of Industrial Disputes Act and since the respondent department has not followed the procedure prescribed under the provisions of Industrial Dispute Act regarding retranchment therefore, the retranchment of the petitioner w.e.f. May, 1997 is void abintio and the petitioner is entitled to be deemed in service till the date of reengagement by the department and as such prayed for reengagement in the same capacity, regularization, arrears with 18% interest along with full back wages, hence this claim duly supported by an affidavit.

3. The respondent resisted and contested the claim of the petitioner, which filed reply interalia contending that the petitioner was engaged as casual labourer in the department to carry out seasonal work w.e.f. 21-5-1985 and that the petitioner did not work continuously till 30th April, 1997, who worked casually, who was never told that there is no work for him but the petitioner left the job of his own accord without informing the department and that the petitioner has not completed 240 days in a single year during the period he remained in the department, who worked for 94 days in 1985, 137 days in 1986, 69 days in 1987, 99 days in 1988, 131 days in 1989, 131 days in 1990, 174 days in 1991, 101 days in 1992, 42 days in 1993, 6 days in 1994 and 17 days in 1997 and that the department has not given assurance to the petitioner for his reengagement as no such record is available in this office. It is admitted that the name of the petitioner was sent to higher authority inadvertently for which the explanation of the then DFO Jubbal and the dealing Assistant was called for and that the department has never assured him for his regularization as he has not been covered under the policy of the government for regularization and the name of the petitioner was not considered for regularization for which the petitioner filed an O.A before the Administrative Tribunal and that during Jan. 1998, eight persons were regularized in the then Jubbal Division and when the original record was thrashed to file the reply of the M.A No. 968 in O.A No. 1242/98 filed by the petitioner before the Administrative Tribunal, it was found that five persons out of eight candidates were regularized, who have not completed 240 days in a calendar year and they were lateron terminated and the Administrative Tribunal vide order dated 31-7-2003 has ordered that the applicant be regularized as per latest policy of the government, who have completed eight years of continuous service with 240 days in each calendar year as per seniority and that the petitioner never asked to leave the job but he himself left the job of his own accord and the petitioner has not completed required mandays as per government policy and according to the order passed by the Administrative Tribunal, hence the question to serve the notice upon the petitioner does not arise as the petitioner had worked in the department casually and seasonally and does not fall within the purview of Industrial Disputes Act and as such prayed for the dismissal of the claim.

4. In the rejoinder, the petitioner controverted the assertions made in the reply and reiterated and reaffirmed the averments of the petition.

5. The following issues were framed by this Court on 18.7.2005 on the pleading of the parties.

1. Whether termination of services of petitioner by respondent w.e.f 30.4.2003 without complying the provisions of Industrial Disputes Act, 1947 is proper and justified? ...OPR
2. If issue No.1 is not proved, to what relief of service benefits, seniority and compensation the petitioner is entitled to? ...OPP
3. Whether the petitioner left the job at his own as alleged? ...OPR
4. Relief.

6. I have heard the Ld. Counsels for the parties and have also gone through the record of the case.

7. For the reasons to be recorded hereinafter while discussing the issues for determination, my findings on the aforesaid issues are as under:—

Issue No. 1	No
Issue No. 2	Entitled to reinstatement with seniority and continuity in service but without back wages.
Issue No. 3	No
Relief	Reference answered in affirmative per operative part of award.

REASONS FOR FINDINGS.

Issue No. 1:

8. Coming to issue No. 1, the petitioner examined himself as PW-1, who has stated that he was employed as labourer in Sheel Block in 1984 and worked till 1998, who was told that no budget was available with the department and he would be called as and when the budget is provided. No notice nor compensation has been paid to him by the respondent. He filed one case for reengagement before the Administrative Tribunal which was dismissed on the ground of jurisdiction copy of which is Ex. PC. He had completed ten years continuous service in the department as per seniority list Ex. PA & PB. Surat Ram and Jaswant have been regularized and both of them are juniors to him and as such prayed for reinstatement along with back wages.

9. To rebut the case of the petitioner, the respondent examined two RWs in all. RW-1 Shri Amar Chand, Senior Assistant has stated that he has brought the record of the case regarding muster roll pertaining to the petitioner and the number of days during which the petitioner worked in the department are mentioned in the reply and the petitioner has worked in different months as per the detail given in the muster roll and year wise detail of total mandays are mentioned in the reply. Last time the petitioner worked in the department on muster roll from 21-2-1997 to 9-3-1997 as per copy of muster roll Ex. RA and then the petitioner never came back to work, who has also not given in writing to the department to re-engage him and no junior to the petitioner has been retained.

10. RW-2 Shri Jagdish Singh Forest Guard has stated that he was posted in Mandhol Beat in 1996 and worked till 26-6-1997, who has brought the muster roll Ex. RA. He has checked the other record of the petitioner, who was not regular in his work and the petitioner left the work after 9-3-1997 and the petitioner has not been removed by them and the petitioner has not completed 240 days in any calendar year.

11. The case of the petitioner is that he being a daily wages labourer having worked for more than ten years and even no notice nor compensation was paid to him at the time of his removal and even junior to him S/Shri Surat Ram and Jaswant are still working with the department, whose services have been regularized by the department and as such he is entitled to be reengaged with seniority and continuity in service along with back wages.

12. On the contrary, the respondent contends that the petitioner has not completed 240 working days in any calendar year preceding his abandonment and even the petitioner was not terminated by the respondent department, who left the job of his own without any intimation to the department and even no junior to the petitioner has been retained by the department and as such his case does not fall under section 25-F of the Industrial Disputes Act, 1947, hence the petitioner is not entitled to any relief as prayed by him.

13. I have considered the respective contention of both the parties and have scrutinized the record of the case.

14. After the close scrutiny of the record of the case, it is clear that the petitioner has proved on record that DFO Jubbal has sent a list of daily paid workers for regularization to Conservator of Forest Shimla which is evident from Ex. PA and PB and the name of the petitioner finds figure at serial no. 7 and the certificate to the effect that daily paid workers as shown in the list have been completed 240 days in every calendar year and another note was given that daily paid workers at serial no. 5, 7 and 9 have completed 10 years alongwith 240 days within the calendar year but they have left the working of their division. It is significant to note that the DFO Jubbal has not stepped into the witness box in order to rebut the list of the daily waged workers sent by him to the Conservator of Forest. No doubt, the respondents tried to establish on record that the case of the petitioner for regularization was sent inadvertently for which the explanation of the then DFO Jubbal and the Dealing Assistant was called for but no such record has been put forth before this court in order to show that infact the wrong case for regularization of the petitioner was sent to the Conservator of Forest Shimla. It is significant to note that the respondents never cared to examine the then DFO Jubbal and the then Dealing Assistant in order to show that the wrong case for regularization of petitioner was sent to the Conservator of Forest, Shimla and that the petitioner never worked for 240 days in any calendar year preceding his termination. Since the respondents have admitted having sent the case of the petitioner alongwith other daily wages workers for regularization to the Conservator of forest, Shimla after appending the certificate of having worked for 240 working days in every calendar year preceding his termination and that the petitioner has completed ten years of service and even the then DFO Jubbal and the then Dealing Assistant who prepared the list of daily wages workers at the relevant time were not examined by the respondents for the reasons best known to it and obviously therefore, the adverse inference can be drawn against them that the petitioner has completed 240 working days in every calendar year preceding his termination whose name was intentionally ignored by the respondent department and even the respondents never informed the petitioner about the fate of his case at any point of time and no notice nor any

compensation was given to the petitioner at the time of his termination and obviously therefore, I have no hesitation in coming to the conclusion that the termination of services of petitioner by the respondents w.e.f. 30-4-2003 without complying the provisions of ID Act, 1947 is improper and unjustified. Accordingly the issue is decided in favour of petitioner and against the respondents.

Issue No. 2:

15. Since I have held under issue No.1 above, that the termination of services of petitioner by respondent w.e.f. 30-4-2003 without complying the provisions of Industrial disputes Act, 1947 is improper and unjustified and as such the petitioner is held entitled for reinstatement in service with seniority and continuity from the date of illegal termination. However, the petitioner is not entitled to back wages as he has not placed any material on record to substantiate that he was not gainfully employed after his retrenchment. Accordingly this issue is decided in favour of petitioner and against the respondent.

Issue No. 3:

16. In support of this issue, no evidence was led by the respondent nor it was pressed during the course of arguments. However, it is well settled in *State of HP & Others Vs. Bhagat Ram & Another as reported in latest HLJ 2007 (HP) 903* in which it was held that:—

“Plea of abandonment of job- merely raising the plea of abandonment is nothing but has to be established on the basis of facts. No facts led to substantiate the plea.”

Thus, having regard to no evidence on this issue of abandonment, it can safely be concluded that the petitioner has not abandoned the job of his own. Accordingly, the issue is decided in favour of petitioner and against the respondent.

RELIEF

As a sequel to my above discussion and findings on issue No. 1 to 3 above, the claim of the petitioner succeeds and is hereby allowed and as such the petitioner is ordered to be reinstated forthwith along-with seniority and continuity in service from the date of termination. However, the petitioner is not entitled to back wages as he has not placed any material on record to substantiate that he was not gainfully employed after his retrenchment and as such the reference is ordered to be answered accordingly. Let a copy of this award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced in the open court today on this 4th day of December, 2008 in the presence of parties counsels.

By order,
JAGMOHAN SINGH MAHANTAN,

IN THE COURT OF JAGMOHAN SINGH MAHANTAN, PRESIDING JUDGE, INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, SHIMLA

Ref No. 137 of 1999
Instituted on. 4-8-1999.
Decided on 15-1-1999.

1. Ramesh Kumar.
 2. Joginder singh.
 3. Kamal Kumar.
 4. Santosh Singh.
 5. Pratap Singh.
 6. Kali Ram.
 7. Changgu Ram
- All C/o Labour Inspector Nahan, District Sirmour, HP

...Petitioners

Vs.

The Executive Officer, Nagar Parishad Nahan, District Sirmour, HP.

...Respondent

Reference under section 10 of the Industrial Disputes Act, 1947.

For petitioners : Shri S.S Sippy, Ld. AR.

For respondent : Shri S.S Parmar, Ld. Csl.

AWARD

1. The following reference has been received by this Court from appropriate government for adjudication:-

“Whether the termination of services of S/Shri Ramesh Kumar, Joginder Singh, Kamal Kumar, Santosh Singh, Partap Singh, Kali Ram and Channgu Ram ex-daily wages beldars by the Executive Officer Nagar Parishad Nahan District Sirmour HP without any notice, charge sheet, enquiry and without compliance of section 25-F of the Industrial Disputes Act, 1947 and not allowing the workers to complete 240 days continuous service by way of giving them fictional breaks from time to time resorting to the alleged unfair labour practice is legal and justified. If not, to what relief of service benefits and amount of compensation, the above aggrieved workmen are entitled to?”

“Whether the above workers have abandoned the duties on their own as alleged. If so, to what effect?”

2. The petitioners S/Shri Ramesh Kumar, Santosh Singh and Channgu Ram has filed the claim asserting therein that petitioner Ramesh Kumar was appointed by the employer as daily rated beldar on 1-4-1989 and continued as such upto 31-12-1996 and during this period the employer gave break of six months every year but during 1994, he was given full break and then the employer reengaged him on 2-10-1997 to 25-6-1998 and on 26-6-1998, he was forcibly terminated who requested the employer from time and again for reengagement but of no use whereas a new hand Shri Anil Kumar was taken on job during 1999 and the employer terminated his services without any notice, reason and compensation, thus his termination is bad in law and prayed for reinstatement and that petitioner Shri Santosh Singh was appointed by the employer as daily rated beldar on 6-12-1989 and continued to work as such till 9.8.1991 and then the employer gave him breaks from 10-8-1991 to 1-10-1997 and on 2-10-1997 he was reemployed upto 25-6-1998 and then he was forcibly terminated whereas a new hand Shri Anil Kumar was taken on job during 1999 and on his repeated requests, he was taken back on work on 17-1-2000 and as such his termination break period from 26-6-1998 to 16-1-2000 be regularized and the wages thereof also be paid and that petitioner Chhangu Ram, Mason was employed by the employer on 1-1-1990 on daily wages and continued to work as such upto 31-12-1992 and then he was given break from 1-1-1993 to 1-10-1997, who was reengaged as mason on 2-10-1997 upto 25-6-1998 and then he was forcibly terminated whereas the employer was having the work of mason of regular nature which is unfair practice and that all the three petitioners worked for 240 days in every calendar year and that they have not been paid the retrenchment compensation as required under section 25-F (b) of Industrial Disputes Act, 1947 and that no seniority was maintained before affecting termination by the Management and had retained the juniors to the petitioners on work and as such violated the Section 25-G of the I.D. Act, 1947 and as such prayed for reinstatement alongwith seniority and continuity in service including full back wages, hence this claim.

3. The respondent resisted and contested the claim of the petitioners, which filed reply inter alia contending that the applicants have been appointed under the scheme E.I.U.S. for which funds are given by the State/Centre Government, who have continued till the project work is available and on the completion of the project their services are no longer required, who have not engaged directly on the works of the M.C but are engaged under the project and that the applicants were engaged on specific work and on the completion of the work, their services have been dispensed with. It is denied that Ramesh Kumar was engaged in the year 1989 and he continued as daily wages beldar upto 31-12-1996. who worked for 67 days in 1992, 180 days in 1993, 202 days in 1996, 205 days in 1997 and 168 days in 1998 and that the work of plantation is a seasonal work and it is not true that he was given break as alleged. Shri Ramesh Kumar has been reengaged as beldar w.e.f. Jan. 2000 against work of EIUS for which the funds are provided by the Centre/State Govt., who would remain till the work is available and that petitioner Shri Santosh Kumar has worked for 68 days in 1990, 91 days in 1991, 70 days in 1997 and 135 days in 1998 and that the petitioner Shri Chhangu Ram has worked for 68 days in 1990, 91 days in 1991, 78 days in 1997, 129 days in 1998, who was engaged for providing slabs of stone in bazar and now there is no work of providing stone slabs in M.C. Nahan, hence he cannot be reengaged on works and as such there is no violation of section 25 F (b) of I.D. Act, hence prayed for the dismissal the claim with costs.

4. It is significant to note that only Ramesh Kumar, Santosh Singh and Changu Ram petitioners have filed their claim but the other petitioners have not filed their claim for the reasons best known to them and as such they are not entitled to any relief as claimed by them.

5. In the rejoinder, the petitioners controverted the assertions made in the reply and reiterated and reaffirmed the averments of the petition.

6. The following issues were framed by this Court on 19.09.2001 on the pleading of the parties:

1. Whether termination of petitioners from service is in violation of section 25 F of I.D. Act as alleged? ...OPP
2. Whether the petitioners have abandoned the job themselves as alleged? ...OPR
3. Relief.

7. I have heard the Ld. Counsels for the parties and have also gone through the record of the case.

8. For the reasons to be recorded hereinafter while discussing issues for determination, my findings on the aforesaid issues are as under:—

Issue No. 1	No
Issue No. 2	No
Relief	Reference answered in negative per operative part of award.

REASONS FOR FINDINGS

Issue No. 1:

9. Coming to this issue, the petitioners have examined two PWs in all. PW-1 Ramesh Kumar has stated that he joined as beldar on 1.4.89 and worked till 25.6.98 on daily wages, who was reemployed on 17-2-2000, who was not given any charge sheet. His juniors Anil and Partap were kept thereafter. Break period be treated as continuity of service and wages be paid to him.

10. PW 2 Changu Ram has stated that he joined as Mason in the year 1990 by the respondent and was terminated on 1-1-93 and again he was kept on 2-10-97, who was terminated on 26-6-98. No notice or charge sheet was served upon him and junior persons have been kept. He was unemployed and he wants to be reinstated with full back wages and seniority.

11. To rebut the case of the petitioners, the respondent examined Sh. R. R. Sharma Executive Officer, Nagar Parishad, Nahan, who has stated that Ramesh Kumar & Ors. have worked with him as per the days mentioned in the reply. He has brought the muster rolls, copies of which are Ex R 1 and R 2. Ramesh Kumar and Santosh Singh have been reengaged as per their seniority. Now there is no work for other petitioners and they would be reengaged as and when the work is available.

12. The case of the petitioners is that they being daily wages beldars/Mason having worked more than 240 days in every calendar year preceding their termination and no notice nor compensation was paid to them at the time of their termination, who were illegally terminated from service and even juniors to them are still continuing with the respondent and as such they are entitled for their reinstatement with seniority and continuity including back wages.

13. On the contrary, the respondent contends that the petitioners were engaged for seasonal work and for specific period whose services came to an end on the completion of the work and even the petitioners have not completed 240 working days in any calendar year preceding their termination and no juniors to the petitioners have been retained by the respondent and as such they are not entitled to any relief as prayed for.

14. I have considered the respective contention of both the parties and have scrutinized the record of the case.

15. After the close scrutiny of the record of the case, the petitioners tried to establish on record that they were not allowed to complete 240 days of continuous service by giving them fictional breaks from time to time but it remains a fact that PW 1 Ramesh Kumar and PW 2 Chhangu Ram have nowhere have stated in their deposition that fictional breaks were given intentionally from time to time so that they could not complete 240 working days. In view of no such whisper in their statement of intentional fictional breaks, which can easily be gathered from their statements that no such fictional breaks from time to time was given by the respondent as they were engaged only when the work was available for them subject to the availability of funds and as such there was no intentional fictional breaks given by

the respondent to the petitioners. Moreover, the petitioners have failed to prove on record that they have completed 240 working days in a calendar year preceding their termination. It is well settled in *AIR 2006 S.C. 110 case titled as Surindernagar District Panchyat V/s Dayabhai Amar Singh* in which it was held that:-

“In case workman claims to have worked for more than 10 years as daily wager—Apart from oral evidence workman has not produced any evidence to prove fact that he has worked for 240 days---No proof of receipt of salary or wages or any record or order in that regard was produced: no co-worker was examined; muster roll produced by employer has not been contradicted—Workman has failed to discharge his burden that he was in employment for 240 days during preceding 12 months of date of termination of his service—Workman not entitled for protection of Section 25-F before his service was terminated.”

16. Apart from it, there is no evidence of official of respondent on record led by the petitioners that they have completed more than 240 working days in a calendar year preceding their termination nor they examined any co-worker in order to prove their case and as such they are not entitled to protection of section 25-F of the Industrial Disputes Act, 1947.

17. Now, adverting to the other aspect of the case the petitioners tried to establish on record by deposing in the statement of PW 1 Ramesh Kumar that their juniors Anil and Partap were kept thereafter but it was not proved on record as to when they joined in what capacity the services of the respondent and whether they are still continuing with the respondent. It is significant to note that no official record of the respondent summoned in order to show that Anil and Pratap joined the services after the termination of the petitioners and they are still continuing with the respondent department. In view of no such evidence on record, it can safely be concluded that no juniors to the petitioners are continuing with the respondent department.

18. Thus, having regard to entire evidence on record, it can safely be concluded that the termination of petitioners from service is not in violation of section 25-F of the Industrial Disputes Act, 1947. Accordingly, this issue is decided in favour of respondent and against the petitioners.

Issue No. 2:

19. In support of this issue, no evidence was led by the respondent nor it was pressed during the course of arguments. However, it is well settled in *State of HP & Others Vs. Bhagat Ram & Another as reported in latest HJLJ 2007 (HP) 903* in which it was held that:—

“Plea of abandonment of job- merely raising the plea of abandonment is nothing but has to be established on the basis of facts. No facts led to substantiate the plea.”

Thus, having regard to no evidence on this issue of abandonment, it can safely be concluded that the petitioners have not abandoned the job of their own. Accordingly, the issue is decided in favour of petitioner and against the respondent.

RELIEF

As a sequel to my above discussion and findings on issue No. 1 & 2 above, the claim of the petitioners fails and is hereby dismissed and as such the reference is ordered to be answered accordingly. Let a copy of this award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced in the open court today on this 15th day of December, 2008 in the presence of parties counsels.

By order,
JAGMOHAN SINGH MAHANTAN,
Presiding Judge.

IN THE COURT OF JAGMOHAN SINGH MAHANTAN, PRESIDING JUDGE, INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, SHIMLA

Ref. No. 208 of 2002
Instituted on 24-7-2002
Decided on 3-12-2008

1. Ram Parkash S/o shri Jati Ram, R/o Village Ser Jagas, Tehsil Rajgarh, District Sirmour, H.P.

2. Jagat Ram S/o Shri Mohinder Singh Village Tikkari P.O Sangrah, District Sirmour, H.P....*Petitioners*
Vs.

The Registrar, Dr. Y.S Parmar University of Horticulture and Forestry Nauni District Solan, H.P.

...*Respondent*

Reference under section 10 of the Industrial Disputes Act, 1947.

For petitioner : Shri V.B Verma, Ld. Csl.

For respondent : Ms. Veena Sood, Ld. Csl.

AWARD

1. The following reference has been received from appropriate government by this Court for adjudication:—

“Whether the termination of services of Shri Ram Parkash S/o Shri Jati Ram w.e.f. May, 1994 and Shri Jagat Ram S/o Shri Mohinder Singh w.e.f. year 1995 by the Registrar Dr. Y.S Parmar University of Horticulture and Forestry Nauni Solan, HP on completion of more than 240 days of continuous service and without complying the provisions of section 25-F of the Industrial Disputes Act, 1947 and retaining the juniors in the job is proper and justified? If not, what relief of service benefits the above aggrieved workmen are entitled to?”

“Whether the workmen have abandoned the job at their own? If no, what its effect?”

2. The petitioner Jagat Ram has filed a claim asserting therein that he has completed 240 days of continuous service under the respondent in every calendar year till his illegal disengagement and that the petitioner kept on meeting but nothing has been done in favour of the petitioner and that the respondent has violated the provisions of section 25-F of the Industrial Disputes Act as they have not given notice nor paid compensation to the petitioner and the respondent even violated the section 25-H of the Industrial disputes Act by engaging fresh persons ignoring the claim and seniority of the petitioner and have also violated section 25-G of the Industrial Disputes Act by engaging junior persons in service to the petitioner which is against the settled law and that the action of the respondent in dispensing with the services of the petitioner without any notice or retrenchment compensation is in violation of the provisions of section 25-F of the Industrial Disputes Act and as such is highly unjustified and is liable to be set aside, hence prayed for reinstatement with all consequential benefits.

3. The respondent resisted and contested the claim of the petitioner, which filed reply inter alia raising preliminary objections that the claim of the petitioner is time barred and also barred by abandonment and that the respondent while adopting the state government instructions had already banned the engagement of casual labourer on muster rolls. On merits, it is contended that the petitioner was engaged as a casual worker on muster roll on seasonal basis in the month of Jan. 1992 and remained in casual employment till Feb. 1995, who worked for 127 days in 1992, 150 days in 1993, 322 days in 1994 and 35 days in 1995 and as such it is clear that the petitioner had worked in shorter spells in all these years on seasonal basis, who abandoned the job of his own without any intimation to the respondent. It is denied that the applicant had completed 240 days in any calendar year except in 1994 and then the petitioner has abandoned his seasonal work without any notice, leave and prior intimation. It is also denied that the petitioner has illegally retrenched. It is denied that the petitioner made any written request for his reengagement in the respondent university after his abandonment and that the petitioner after abandonment of the job from the university since 1995 for the first time had submitted one demand notice dated 4-3-2001 and the respondent had shown its inability to employ the petitioner after such a long absence, hence there exists no Industrial dispute between the workman and the respondent and the Labour Commissioner, Shimla without going into the facts of the case and in a mechanical and casual manner had forwarded the reference to this Court which was beyond the limitation period and that as the petitioner abandoned the work himself in 1995 without any intimation and on the other hand he has voluntarily abandoned his job, hence the question of terminating his job does not arise as the petitioner remained continuously absent for years together without any proper written intimation and permission and the absence from duty had been regulated as per standing orders on the DPLs of the University under Rule V(D) and in view of the provisions of standing orders, the termination of the petitioner had been automatic and as such prayed for the dismissal of the claim.

4. In the rejoinder, the petitioner controverted the assertions made in the reply and reiterated and reaffirmed the averments of the petition.

5. The following issues were framed by this Court on 23-3-2005 on the pleading of the parties.

1. Whether the termination of services of Shri Ram Parkash w.e.f. May, 1994 and Jagat Ram w.e.f. 1995 by respondent on completion of more than 240 days of continuous service and without complying the provisions of section 25-F of ID Act, 1947 and retaining the juniors in job is proper and justified? ...OPR
2. If issue no.1 is not proved to what relief of service benefits the petitioners are entitled to? ...OPP
3. Whether the petitioners have left the job of their own and the claim is not maintainable as alleged? ...OPR
4. Whether the claim is time barred as alleged? ...OPR
5. Relief.
6. I have heard the Ld. Counsels for the parties and have also gone through the record of the case.
7. For the reasons to be recorded hereinafter while discussing the issues for determination, my findings on the aforesaid issues are as under:—

Issue No. 1	Partly yes partly no.
Issue No. 2	Petitioner Shri Jagat Ram is entitled to reinstatement with seniority and continuity but without back wages.
Issue No. 3	No
Issue No. 4	No
Relief:	Reference answered partly in affirmative per operative part of award.

REASONS FOR FINDINGS

Issue No. 1:

8. In support of this issue, petitioner No.2 Shri Jagat Ram appeared into the witness box as PW-2, who has stated that he was engaged as daily wages beldar with the respondent in the year 1992, who used to work in the field, who was disengaged in the month of Feb. 1995 and during the period 1992 to 1995, he worked continuously and had completed 240 days in each and every calendar year as well as preceding 12 months and at the time of his retrenchment no warning and no notice was issued to him nor compensation was paid and after retrenchment he personally made request with the authorities of respondent for reengagement but nothing has been done and then he approached the Labour Officer for settlement and raised Industrial dispute and the persons who were working with him are still working with the respondent and some of them have been regularized and the respondent has engaged many fresh hands after his illegal disengagement and the work is still available with the respondent and he is still unemployed and have no work and as such prayed for reinstatement with all consequential benefits including back wages.

9. To rebut the case of the petitioner, the respondent examined Shri Ram Singh, Technical Assistant as RW-1, who has stated that he is serving in this Department since 1980 and he knows the petitioner, who was engaged in their department in 1992 as beldar on daily wages. The petitioner left the work in Feb., 1995, who worked for 127 days in 1992, 150 days in 1993, 352 days in 1994 and 95 days in 1995, who has not completed 240 days and the petitioner abandoned his job and the petitioner never requested the department for his reengagement. No junior to the petitioner is working in the department and as such the petitioner is not entitled for reengagement.

10. The case of the petitioner Jagat Ram is that he was engaged by the respondent university as daily wages beldar, who worked for more than 240 working days preceding his termination. He was removed from service without notice and retrenchment compensation as required under section 25-F of the Industrial Disputes Act, 1947 and as such he is entitled for his reengagement with seniority and continuity in service including back wages.

11. On the other hand, the respondent contends that the petitioner never completed 240 days in a calendar year preceding his abandonment. The petitioner was never retrenched from service by the respondent, who left the job of his own and he is not entitled to any relief and moreover, no junior of petitioner was retained in service and as such, no notice nor compensation was required to be given to the petitioner.

12. I have considered the respective contention of both the parties and have scrutinized the record of the case.

13. After the close scrutiny of the record of the case, it appears that the reference has been received from appropriate government on behalf of two petitioners i.e Ram Parkash S/o Shri Jati Ram and Shri Jagat Ram S/o Shri Mohinder singh but no claim petition has been filed on behalf of the petitioner Shri Ram Parkash which clearly shows that the petitioner Ram Parkash has not pleaded his case, who did not file his claim nor led any evidence to prove his claim and as such can be granted in his favour for want of evidence on record.

14. Now adverting to the case of petitioner no.2 Jagat Ram, it is admitted case of the respondent that the petitioner has put in 352 days in the year 1994 even RW-1 Shri Ram Singh Technical Assistant, Horticulture University Nauni has stated on oath that the petitioner has worked for 352 days in the year 1994 out of which the petitioner worked for 219 days in plan and 103 days in a project. This witness has admitted in his cross examination that the work of the University where the petitioner was engaged. The witness has further admitted that if the worker having more than two years of service and he is to be removed then 30 days notice is required as per clause 5 of the standing orders and no notice is given to the petitioner. No doubt, Ld. counsel for respondent tried to establish on record that the requirement of completion of 240 working days is ought to be completed for the year preceding his termination and not in any calendar year. I find no force in this contention because even if the working days of the petitioner Jagat Ram is calculated for the year in 1994 and 95 days in 1995 and if we club both the years of 1994 and 1995 and considering the 12 preceding months, the petitioner had put in more than 240 working days. Even otherwise it is well settled **in CWP No. 517 of 2005 decided on 30.4.2007 in case titled State of HP & Others V/S Bhtag Ram & Another as reported in latest Hlj 2007 (HP) 903** in which it was held that:—

“Counting of 240 days not necessary in 12 calendar months. It is not necessary of the workman to complete 240 days during the 12 months for taking the benefits.

After the close scrutiny of the above cited ruling coupled with the provisions of section 25-F of the Industrial Disputes Act, 1947, it is clear that the provision of section 25-F is attracted where the petitioner has put in 240 working in any calendar year preceding his termination. In the instant case, the petitioner has put in 352 working days in the year 1994 but no notice nor retrenchment compensation was paid to the petitioner Jagat Ram at the time of his termination and as such the requirement of section 25-F of Industrial Disputes Act, 1947 is missing in this case and obviously therefore, I have no hesitation in coming to the conclusion that the service of the petitioner Jagat Ram has been illegally terminated by the respondent without complying with the provisions of section 25-F I.D Act, 1947 on completion of 240 days and as such this issue is decided in favour of petitioner Jagat Ram and against the respondent.

Issue No. 2:

15. Since I have held under issue no.1 above that the termination of services of petitioner No.2 Shri Jagat Ram by the respondent w.e.f. 1995 on completion of 240 working days continuous service and without complying the provisions of section 25-F of Industrial Disputes Act, 1947 is improper and unjustified, hence the petitioner is entitled to reinstatement in service with seniority and continuity. However, the petitioner is not entitled to back wages as he has not placed any material on record to substantiate that he was not gainfully employed after his retrenchment. Accordingly, issue no.2 is decided in favour of the petitioner and against the respondent.

Issue No. 3:

16. In support of this issue, no evidence was led by the respondent being the legal issue. However, I find nothing wrong with this claim which is perfectly maintainable in the present form. It is not proved on record by the respondent that the petitioners themselves left the job of their own. However, it is well settled in case titled as **State of HP & Others Vs. Bhagat Ram & Another as reported in latest Hlj 2007 (HP) 903** in which it was held that:—

“Plea of abandonment of job- merely raising the plea of abandonment is nothing but has to be established on the basis of facts. No facts led to substantiate the plea.”

Thus, having regard to no evidence on this issue of abandonment, it can safely be concluded that the petitioners have not left the job of their own. Accordingly, the issue is decided in favour of petitioners and against the respondent.

Issue No. 4:

17. In support of this issue, no evidence was led by the respondent being the legal issue. However I have scrutinized the record of the case and observed that there is no limitation under the Industrial Disputes Act, 1947 as it was held by their lordships of **Hon’ble Supreme Court reported in (1999) 6 SC 82 case titled as Ajayab singh Vs. Sirhind Co-operative Marketing –cum- processing Service Society Limited and Another.** In which it was held that:—

“the provisions of Article 137 of Limitation Act, 1963 are not applicable to the proceeding under the ID Act. The relief under the ID Act cannot be denied merely on the ground of delay. The plea of

delay if raised by the employer is required to be proved as a matter of fact by showing the real prejudice and not as a merely hypothetical defence. No reference to the Labour Court can be generally questioned on the ground of delay alone"

Accordingly, on the strength of this ruling, it can safely be concluded that there is no limitation under the Industrial Disputes Act, 1947 and as such issue is decided in negative.

RELIEF

As a sequel to my above discussion and findings on the aforesaid issues, the claim of the petitioner Shri Jagat Ram succeeds and is hereby allowed and as such the petitioner no.2 Jagat Ram is ordered to be reinstated forthwith in service with seniority and continuity from the date of reference. However, the petitioner is not entitled to back wages as he has not placed any material on record to substantiate that he was not gainfully employed after his retrenchment and as such the reference is ordered to be answered accordingly. Let a copy of this award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced in the open court today on this 3rd day of December, 2008 in the presence of parties counsels.

By order,
JAGMOHAN SINGH MAHANTAN,
Presiding Judge.

GENERAL ADMINISTRATION DEPARTMENT

SECTION-A

NOTIFICATION

Shimla-2, the 9th September, 2009

NO. GAD-(F) 9-6/2009.—The Governor, Himachal Pradesh is pleased to order that the holidays as listed in Annexure-I, will be observed as gazetted holidays during the calendar year 2010, in the State of Himachal Pradesh.

2. In addition to the holidays mentioned in Annexure-I, all Government employees will be authorized to avail Two Restricted Holidays out of those mentioned in Annexure-III.

3. Holidays listed in Annexure-II are declared Gazetted holiday for Women employees working in all Government Offices/Boards/Corporations/Educational Institutions in H.P. These will also be holidays for Women employees within the meaning of Section 25 of Negotiable Instrument Act 1881 and also to daily wage Women employees.

4. (i) The Deputy Commissioners in the State are authorized to declare two local holidays within their jurisdiction during 2010 in connection with celebration of important fairs and festivals in the respective District/Area.

(ii) However, for the offices situated within the Municipal limits of Shimla, two local holidays will be declared by the State Government after receiving proposals in this regard from the Deputy Commissioner Shimla and for the rest of District Shimla, two local holidays will be declared/decided by the Deputy Commissioner Shimla as per past practice. For the Offices of H.P. Govt. situated at Delhi, two local holidays will be declared by the State Govt. after receiving proposals in this regard from Pr. Resident Commissioner, H.P., New Delhi.

5. The holidays listed in Annexure-IV are also declared as gazetted holidays within the meaning of Section 25 of Negotiable Instrument Act. 1881.

By order,
(ASHA SWARUP),
Chief Secretary.

ANNEXURE –I

GAZETTED HOLIDAYS FOR THE YEAR 2010

Sr. No.	Holiday	Date	Saka	Day of week
1.	Guru Govind Singh's Birthday	5th January, 10	<u>SAKA ERA</u> <u>1931</u> Pausa 15	Tuesday
2.	State-Hood day	25th January 10	Magha 5	Monday
3.	Republic day	26th January 10	Magha 6	Tuesday
4.	Maha Shivratri	12th February 10	Magha 23	Friday
5.	Holi	1st March, 10	Phalguna 10	Monday
6.	Ram Navmi	24th March 10	<u>SAKA ERA</u> <u>1932</u> Chaitra 03	Wednesday
7.	Dr. B.R. Ambedkar's Birthday	14th April, 10	Chaitra, 24	Wednesday
8.	Himachal Day	15th April 10	Chaitra 25	Thursday
9.	Budha Purnima	27th May, 10	Jyaistha 06	Thursday
10.	Sant Guru Kabir Jayanti (Prakat Diwas)	28th June, 10	Asadha 07	Monday
11.	Independence Day	15th August, 10	Sravana 24	Sunday
12.	Janamsshtami	2nd Sept., 10	Bhadra, 11	Thursday
13.	Idu'l Fitr	11th Sept., 10	Bhadra 20	Saturday
14.	Mahatma Gandhi's Birthday	2nd October, 10	Asvina 10	Saturday
15.	Maharishi Valmiki's Birthday	22nd October, 10	Asvina, 30	Friday
16.	Dussehra	17th October, 10	Asvina, 25	Sunday
17.	Diwali	05th November, 10	Kartika 14	Friday
18.	Idu'l Zuha (Bakrid)	17th November, 10	Kartika 26	Wednesday
19.	Guru Nanak's Birthday	21st November, 10	Kartika 30	Sunday
20.	Muharram	17th December, 10	Agrahayana, 26	Friday
21.	Christmas Day	25th December, 10	Pausa 4	Saturday

Gazetted Holidays for the year 2010 for Women Employees working in all Government Offices/Boards/ Corporations/Educational Institutional in H.P. These will also be holiday for women employees Under Section 25 of Negotiable Instrument Act, 1881 and also to daily Wage Women employees.

Sr. No.	Holiday	Date	Saka	Day
1.	Raksha Bandhan	24th August,10	<u>SAKA ERA 1932</u> Bhadra 02	Tuesday
2.	Karva Chauth	26th October, 10	Ashvina 04	Tuesday
3.	Bhai Duj	7th November,10	Kartika 16	Sunday

Annexure-III

RESTRICTED HOLIDAYS FOR THE YEAR 2010

Sr. No.	Holiday	Date	Saka	Day
1.	Makara Sankranti/Lohri	14th January 10	Pausa 24	Thursday
2.	Basanta Panchami	20th January, 10	Pausa 30	Wednesday
3.	Guru Ravi Dass Birthday	30th January,10	Magha 10	Saturday
4.	Milad-Un-Nabi or Id-E Milad (Birthday of Prophet Md.)	27th February,10	Phalguna 08	Saturday
5.	Holika Dahan	28th February,10	Phalguna, 09	Sunday
6.	Mahavir Jayanti	28th March, 10	<u>SAKA ERA, 1932</u> Chaitra 7	Sunday
7.	Good Friday	02nd April, 10	Chaitra 12	Friday
8.	Easter	04th April, 10	Chaitra 14	Sunday
9.	Hazarat Ali's Birthday	26th June,10	Asadha 05	Saturday
10.	Maha Ashtami	15th October,10	Asvina 23	Friday
11.	Govardhan Puja	06th November,10	Kartika 15	Saturday
12.	Guru Teg Bahadur's Martyrdrom Day	24th November 10	Agrahayana 03	Wednesday
13.	Christmas Eve	24th December 10	Pausa 03	Friday

**GAZETTED HOLIDAYS FOR THE YEAR 2010 UNDER NEGOTIABLE
INSTRUMENTS ACT 1881**

Sr. No.	Holiday	Date	Saka	Day of week
1.	State Hood day	25th January, 10	Saka Era 1931 Magha 5	Monday
2.	Republic day	26th January 10	Magha 6	Tuesday
3.	Maha Shivratri	12th February 10	Magha 23	Friday
4.	Holi	1st March,10	Phalguna 10	Monday
5.	Annual Accounts Closing	1st April,10	Saka Era 1932 Chaitra, 11	Thursday
6.	Dr. B.R. Ambedkar's Birthday	14th April 10	Chaitra 24	Wednesday
7.	Himachal Day	15th April 10	Chaitra 25	Thursday
8.	Budha Purnima	27th May, 10	Jyaistha 06	Thursday
9.	Independence Day	15th August, 10	Sravana 24	Sunday
10.	Idu'l Fitr	11th September, 10	Bhadra 20	Saturday
11.	Half Yearly Accounts Closing	30th September, 10	Asvina 08	Thursday
12.	Mahatma Gandhi's Birthday	2nd October,10	Asvina 10	Saturday
13.	Dussehra	17th October, 10	Asvina, 25	Sunday
14.	Diwali	05th November,10	Kartika 14	Friday
15.	Idu'l Zuha (Bakrid)	17th November, 10	Kartika 26	Wednesday
16.	Guru Nanak's Birthday	21st November,10	Kartika 30	Sunday
17.	Christmas Day	25th December, 10	Pausa 4	Saturday

ब अदालत श्री मनोज कुमार, नायब तहसीलदार एवं कार्यकारी दण्डाधिकारी, पालमपुर, जिला कांगड़ा,
हिमाचल प्रदेश
केस नं० 50/NT-II/09.

तारीख पेशी 26-10-2009

श्री राजिन्द्र प्रसाद

बनाम

सर्वसाधारण एवं आम जनता,

प्रार्थना-पत्र अधीन धारा 13 (3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

श्री राजिन्द्र प्रसाद पुत्र श्री दीवान चन्द, निवासी मुहाल लोहना, मौजा लोहना, तहसील पालमपुर, जिला कांगड़ा, हिमाचल प्रदेश ने इस कार्यालय में प्रार्थना-पत्र दिया है कि उसके लड़के अरणव कुमार का जन्म दिनांक 21-1-1993 को हुआ है मगर ग्राम पंचायत आईमा के अभिलेख में दर्ज नहीं है।

अतः इस इशतहार हजा द्वारा सर्वसाधारण को सूचित किया जाता है कि यदि इस बारे किसी व्यक्ति को कोई उजर या एतराज हो तो वह दिनांक 26-10-2009 को सुबह 10.00 बजे असालतन या वकालतन हाजिर अदालत आकर प्रस्तुत कर सकता है। बाद गुजरने मियाद कोई भी उजर या एतराज काबिले समायत न होगा तथा अरणव कुमार पुत्र श्री राजिन्द्र प्रसाद की जन्म तिथि 21-1-1993 के पंजीकरण आदेश सम्बन्धित पंचायत को पारित कर दिए जाएंगे।

आज दिनांक 28-8-2009 को हमारे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

मनोज कुमार,
नायब तहसीलदार एवं सहायक समाहर्ता द्वितीय श्रेणी,
पालमपुर, जिला कांगड़ा, हिमाचल प्रदेश।

ब अदालत श्री मनोज कुमार, नायब तहसीलदार एवं कार्यकारी दण्डाधिकारी, पालमपुर, जिला कांगड़ा,
हिमाचल प्रदेश

केस नं० 51/NT-II/09.

तारीख पेशी 26-10-2009

श्री अजय सिंह

बनाम

सर्वसाधारण एवं आम जनता

प्रार्थना-पत्र अधीन धारा 13 (3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

श्री अजय सिंह पुत्र श्री अनूप सिंह, निवासी मुहाल मालनू, मौजा मालनू, तहसील पालमपुर, जिला कांगड़ा, हिमाचल प्रदेश ने इस कार्यालय में प्रार्थना-पत्र दिया है कि उसकी दादी श्रीमती ज्ञान देवी की मृत्यु दिनांक 25-9-2007 को हुई है मगर ग्राम पंचायत मालनू के अभिलेख में दर्ज नहीं है।

अतः इस इशतहार हजा द्वारा सर्वसाधारण को सूचित किया जाता है कि यदि इस बारे किसी व्यक्ति को कोई उजर या एतराज हो तो वह दिनांक 26-10-2009 को सुबह 10.00 बजे असालतन या वकालतन हाजिर अदालत आकर प्रस्तुत कर सकता है। बाद गुजरने मियाद कोई भी उजर या एतराज काबिले समायत न होगा तथा श्रीमती ज्ञान देवी पत्नी श्री राजिन्द्र सिंह की मृत्यु तिथि 25-9-2007 के पंजीकरण आदेश सम्बन्धित पंचायत को पारित कर दिए जाएंगे।

आज दिनांक 29-8-2009 को हमारे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

मनोज कुमार,
नायब तहसीलदार एवं सहायक समाहर्ता द्वितीय श्रेणी,
पालमपुर, जिला कांगड़ा, हिमाचल प्रदेश।

**In the Court of NaibTehsildar-cum-Executive Magistrate, Dharamshala, District Kangra,
Himachal Pradesh**

Case No. 8/NT/09.

Shri Madho Ram s/o Sh. Dharam Chand & Smt. Pawana Kumari, r/o Khanyara, Tehsil
Dharamshala, District Kangra (H. P.)
Applicants.

Versus

1. General public, 2. The Registrar of Marriages, G. P. Khanyara.

Subject.—Registration of marriage under section 8 (4) of the H. P. Registration of Marriages Act, 1996 (Act No. 21 of 1997).

PUBLIC NOTICE.

Whereas, the above named applicants have made an application under section 8 (4) of the Himachal Pradesh Registration of Marriages Act, 1996 alongwith an affidavit stating therein that they have solemnized their marriage on 28-4-2008 at Khanyara but has not been found entered in the records of the Registrar of Marriages G. P. Khanyara.

And whereas, they have also stated that they were not aware of the laws for the registration of marriage with the Registrar of Marriages and now, therefore, necessary order for the registration of their marriage be passed so that their marriage is registered by the concerned authority.

Now, therefore, objections are invited from the general public that if anyone has any objection regarding the registration of the above named applicants, they should appear before the court of undersigned on 29-9-2009 at Tehsil Office, Dharamshala at 10.00 A. M. either personally or through their authorized agent.

In the event of their failure to do so, orders shall be passed *ex-parte* for the registration of marriage without affording any further opportunity of being heard.

Issued under my hand and seal of the Court on this 12th day of August, 2009.

Seal.

Sd/-
Executive Magistrate,
Dharamshala, Distt. Kangra (H. P.).

ब अदालत श्री मनीष चौधरी, नायब तहसीलदार एवं कार्यकारी दण्डाधिकारी, तहसील धर्मशाला,
जिला कांगड़ा (हि० प्र०)

मुकद्दमा नम्बर : 107/NT/09

श्री कुलदीप चन्द

बनाम

आम जनता

विषय.—प्रार्थना—पत्र जेर धारा 13 (3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

नोटिस बनाम आम जनता।

श्री कुलदीप चन्द पुत्र श्री रामा राम, निवासी घोह, तहसील धर्मशाला, जिला कांगड़ा ने इस अदालत में शपथ—पत्र सहित मुकद्दमा दायर किया है कि उसकी पुत्री शालनी की जन्म तिथि 28-1-2004 है परन्तु ग्राम पंचायत घोह में पंजीकृत नहीं है। अतः इसे पंजीकृत किये जाने के आदेश दिये जायें। इस नोटिस के द्वारा समस्त जनता को तथा सम्बन्धित सम्बन्धियों को सूचित किया जाता है कि यदि किसी को उपरोक्त शालनी की जन्म तिथि पंजीकृत किये जाने बारे कोई एतराज हो तो वह अपना एतराज हमारी अदालत में दिनांक 29-9-2009 को अदालतन या वकालतन हाजिर आकर पेश कर सकता है अन्यथा मुताबिक शपथ—पत्र जन्म तिथि पंजीकृत किये जाने बारे आदेश पारित कर दिये जायेंगे।

आज दिनांक 10-8-2009 को हमारे हस्ताक्षर व मोहर अदालत द्वारा जारी किया गया।

मोहर।

मनीष चौधरी,
नायब तहसीलदार एवं कार्यकारी दण्डाधिकारी,
धर्मशाला, जिला कांगड़ा (हि0 प्र0)।

ब अदालत सहायक समाहर्ता प्रथम वर्ग, सदर मण्डी, जिला मण्डी, हिमाचल प्रदेश

श्रीमती कुन्ता देवी पुत्री श्री भूरू, निवासी तल्याहड़, डा0 तल्याहड़ तहसील सदर, जिला मण्डी, हिमाचल प्रदेश।

बनाम

आम जनता

प्रार्थना-पत्र जेर धारा 13(3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

श्रीमती कुन्ता देवी पुत्री श्री भूरू, निवासी तल्याहड़, डा0 तल्याहड़, तहसील सदर, मण्डी ने इस अदालत में प्रार्थना-पत्र मय शपथ-पत्र सहित मुकद्दमा दायर किया है कि उसका स्वयं का जन्म दिनांक 10-8-1964 को हुआ था परन्तु अज्ञानतावश उसकी जन्म तिथि ग्राम पंचायत तल्याहड़ के रिकार्ड में दर्ज नहीं करा सकी।

अतः सर्वसाधारण को इस इशतहार द्वारा सूचित किया जाता है कि यदि इस बारे किसी को कोई एतराज हो तो दिनांक 15-9-2009 को असालतन या वकालतन प्रातः 10.00 बजे हाजिर होकर अपना एतराज पेश कर सकता है। निर्धारित अवधि के पश्चात् कोई आपत्ति प्राप्त न होने पर प्रार्थना-पत्र श्रीमती कुन्ता देवी पर नियमानुसार कार्यवाही की जाएगी।

आज दिनांक 1-9-2009 को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

हस्ताक्षरित/-
सहायक समाहर्ता प्रथम वर्ग,
सदर मण्डी, जिला मण्डी, हिमाचल प्रदेश।

ब अदालत सहायक समाहर्ता, प्रथम श्रेणी, सुन्दरनगर, जिला मण्डी, हिमाचल प्रदेश

ब मुकद्दमा शीर्षक :

श्री वृक्म राम पुत्र श्री मदन, निवासी बागली, डा0 बटवाड़ा, तहसील सुन्दरनगर, जिला मण्डी, हिमाचल प्रदेश।

बनाम

आम जनता

प्रत्यार्थी।

प्रार्थना-पत्र बाबत नाम की दुरुस्ती बारे।

श्री वृक्म राम पुत्र श्री मदन, निवासी बागली, डा0 बटवाड़ा, तहसील सुन्दरनगर, जिला मण्डी, (हि0 प्र0) ने इस अदालत में प्रार्थना-पत्र मय शपथ-पत्र इस आशय पर पेश किया है कि उसका नाम ग्राम पंचायत बटवाड़ा के अभिलेख में वृक्म राम सही दर्ज है लेकिन उसका नाम राजस्व अभिलेख मुहाल बटवाड़ा/245 में बालक राम गलत दर्ज किया गया है। अब उसका नाम राजस्व अभिलेख मुहाल बटवाड़ा/245 में बालक राम के स्थान पर वृक्म राम पुत्र श्री मदन दर्ज करने के आदेश क्षेत्रीय अभिकरण को दे दिए जाए।

अतः इस इशतहार के माध्यम से आम जनता को सूचित किया जाता है कि उपरोक्त नाम की दुरुस्ती बारे किसी को कोई भी उजर/एतराज हो तो वह दिनांक 25-9-2009 को सुबह 10.00 बजे असालतन या वकालतन हाजिर अदालत आकर अपना उजर/एतराज पेश कर सकते हैं। हाजिर न आने की सूरत में एकतरफा कार्यवाही अमल में लाई जाकर नाम दुरुस्ती के आदेश पारित कर दिए जायेंगे।

आज दिनांक 31-8-2009 को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

हस्ताक्षरित/—
सहायक समाहर्ता प्रथम श्रेणी,
सुन्दरनगर, जिला मण्डी (हि0 प्र0)।

ब अदालत कार्यकारी दण्डाधिकारी (तहसीलदार), चच्चोट स्थित गोहर, जिला मण्डी (हि0 प्र0)

ब मुकद्दमा :

श्रीमती चमेली देवी पत्नी श्री हरबंश लाल, निवासी गांव टाढर, डाकघर गोहर, तहसील चच्चोट, जिला मण्डी (हि0 प्र0) . . प्रार्थी।

बनाम

आम जनता

. . प्रत्यार्थी।

प्रार्थना-पत्र जेर धारा 13 (3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

श्रीमती चमेली देवी पत्नी श्री हरबंश लाल, निवासी गांव टाढर, डाकघर गोहर, तहसील चच्चोट, जिला मण्डी (हि0 प्र0) ने इस न्यायालय में एक प्रार्थना-पत्र दिया है कि उसके पुत्र का नाम चिराग है जिसकी जन्म तिथि 07-05-2005 है। अज्ञानतावश वह अपने लड़के का नाम व जन्म तिथि ग्राम पंचायत वासा के रिकार्ड में दर्ज न करवा सकी जिसे दर्ज करने के आदेश पारित किए जावें।

अतः सर्वसाधारण को इस इशतहार मुनादी हिमाचल प्रदेश राजपत्र के माध्यम से सूचित किया जाता है कि यदि किसी व्यक्ति को उपरोक्त जन्म तिथि व नाम पंचायत रिकार्ड में दर्ज करने बारे कोई आपत्ति या एतराज हो तो वह दिनांक 24-9-2009 को इस न्यायालय में प्रातः 10.00 बजे असालतन या वकालतन उपस्थित आकर अपनी आपत्ति या एतराज प्रस्तुत कर सकता है। हाजिर न आने की सूरत में नियमानुसार कार्यवाही अमल में लाई जाएगी।

आज दिनांक 25-08-2009 को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

हस्ताक्षरित/—
कार्यकारी दण्डाधिकारी (तहसीलदार),
चच्चोट स्थित गोहर, जिला मण्डी (हि0 प्र0)।

ब अदालत श्री नागेशवर दत्त, कार्यकारी दण्डाधिकारी जोगिन्दरनगर, जिला मण्डी, (हि0 प्र0)

ब मुकद्दमा :

श्रीमती सुनी देवी पुत्री श्री ब्रागी राम, निवासी रोपा-पधर, तहसील जोगिन्दरनगर, जिला मण्डी. वादी।

बनाम

आम जनता

. . प्रतिवादी।

दरखास्त बराये जेर धारा 13 (3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

आवेदिका श्रीमती सुनी देवी पुत्री श्री ब्रागी राम, निवासी रोपा-पधर ने इस न्यायालय में आवेदन-पत्र गुजारा है कि उसका नाम व जन्म तिथि 11-12-1963, जोकि ग्राम पंचायत रोपा-पधर के अभिलेख में दर्ज न है। पंचायत का प्रमाण-पत्र संलग्न कर रखा है। अब दर्ज की जावे।

अतः सर्वसाधारण जनता को इस इश्तहार द्वारा सूचित किया जाता है कि यदि किसी व्यक्ति को कोई उजर या एतराज हो तो वह दिनांक 29-9-2009 को सुबह 10.00 बजे असातन या वकालतन हाजिर हो अन्यथा कार्यवाही एकतरफा अमल में लाई जावेगी।

आज दिनांक 27-8-2009 को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

नागेशवर दत्त,
कार्यकारी दण्डाधिकारी जोगिन्दरनगर,
जिला मण्डी, (हि0 प्र0)।

ब अदालत श्री नागेशवर दत्त, कार्यकारी दण्डाधिकारी जोगिन्दरनगर, जिला मण्डी, (हि0 प्र0)

ब मुकद्दमा :

श्रीमती दुर्गी देवी पुत्री श्री दासू, निवासी नेर घरवासड़ा, डा0 मझारनू, तहसील जोगिन्दरनगर, जिला मण्डी . वादी।

बनाम

आम जनता

. . प्रतिवादी।

दरखास्त बराये जेर धारा 13 (3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

आवेदिका श्रीमती दुर्गी देवी पुत्री श्री दासू, निवासी नेर घरवासड़ा ने इस न्यायालय में आवेदन-पत्र गुजारा है कि उसकी जन्म तिथि 12-6-1954 है, जोकि ग्राम पंचायत नेर घरवासड़ा के अभिलेख में दर्ज न है। अतः मेरी जन्म तिथि अब दर्ज की जावे।

अतः सर्वसाधारण जनता को इस इश्तहार द्वारा सूचित किया जाता है कि यदि किसी व्यक्ति को कोई उजर या एतराज हो तो वह दिनांक 29-9-2009 को सुबह 10.00 बजे असातन या वकालतन इस कार्यालय में हाजिर हो अन्यथा गैर-हाजरी की सूरत में कार्यवाही एकतरफा अमल में लाई जावेगी।

आज दिनांक 27-8-2009 को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

नागेशवर दत्त,
कार्यकारी दण्डाधिकारी जोगिन्दरनगर,
जिला मण्डी, (हि0 प्र0)।

ब अदालत श्री नागेशवर दत्त, कार्यकारी दण्डाधिकारी जोगिन्दरनगर, जिला मण्डी, (हि0 प्र0)

ब मुकद्दमा :

श्रीमती सरिता अवस्थी पुत्री श्री ओम प्रकाश अवस्थी, निवासी अवायर, तहसील जोगिन्दरनगर, जिला मण्डी . .वादी।

बनाम

आम जनता

. . प्रतिवादी।

दरखास्त बराये जेर धारा 13 (3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

आवेदिका श्रीमती सरिता अवस्थी पुत्री श्री ओम प्रकाश अवस्थी, निवासी अवायर ने इस न्यायालय में आवेदन किया है कि उसकी जन्म तिथि 27-7-1973 है, जोकि ग्राम पंचायत हार गुणैन के अभिलेख में दर्ज न है। पंचायत का प्रमाण-पत्र संलग्न कर रखा है। अब जन्म तिथि दर्ज की जावे।

अतः सर्वसाधारण जनता को इस इशतहार द्वारा सूचित किया जाता है कि यदि किसी व्यक्ति को कोई उजर या एतराज हो तो वह दिनांक 29-9-2009 को सुबह 10.00 बजे असालतन या वकालतन इस कार्यालय में हाजिर हो अन्यथा गैर-हाजरी की सूरत में कार्यवाही एकतरफा अमल में लाई जावेगी।

आज दिनांक 28-8-2009 को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

नागेशवर दत्त,
कार्यकारी दण्डाधिकारी जोगिन्दरनगर,
जिला मण्डी, (हि0 प्र0)।

ब अदालत श्री नागेशवर दत्त, कार्यकारी दण्डाधिकारी जोगिन्दरनगर, जिला मण्डी, (हि0 प्र0)

ब मुकद्दमा :

श्री सुकर सिंह पुत्र श्री कालू राम, निवासी बनेहड़, डा0 गुम्मा, तहसील जोगिन्दरनगर, जिला मण्डी . .वादी।

बनाम

आम जनता

. . प्रतिवादी।

दरखास्त बराये जेर धारा 13 (3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

आवेदक श्री सुकर सिंह पुत्र श्री कालू राम, निवासी बनेहड़, डा0 गुम्मा ने इस अदालत में आवेदन किया है कि उसकी जन्म तिथि ग्राम पंचायत के रिकार्ड में 28-3-1950 है, जोकि गलत है, जबकि

स्कूल-रिकार्ड में 28-3-1955 है, जोकि सही है। महोदय पंचायत रिकार्ड रोपा पधर में मेरी जन्म तिथि 28-3-1955 की जावे।

अतः सर्वसाधारण जनता को इस इशतहार द्वारा सूचित किया जाता है कि यदि किसी व्यक्ति को कोई उजर या एतराज हो तो वह दिनांक 29-9-2009 को सुबह 10.00 बजे असालतन या वकालतन इस कार्यालय में हाजिर हो अन्यथा गैर-हाजरी की सूरत में कार्यवाही एकतरफा अमल में लाई जावेगी।

आज दिनांक 27-8-2009 को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

नागेशवर दत्त,
कार्यकारी दण्डाधिकारी जोगिन्दरनगर,
जिला मण्डी, (हि0 प्र0)।

ब अदालत श्री नागेशवर दत्त, कार्यकारी दण्डाधिकारी जोगिन्दरनगर, जिला मण्डी, (हि0 प्र0)

ब मुकद्दमा :

श्री रघु पुत्र श्री घुन्कु, निवासी अवायर, तहसील जोगिन्दरनगर, जिला मण्डी . . वादी।

बनाम

आम जनता . . प्रतिवादी।

दरखास्त बराये जेर धारा 13 (3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

आवेदक श्री रघु पुत्र श्री घुन्कु, निवासी अवायर ने इस अदालत में आवेदन किया है कि उसकी जन्म तिथि 31-12-1961 है, जोकि ग्राम पंचायत जिमजिमा के रिकार्ड में दर्ज न है। अब दर्ज किया जावे।

अतः सर्वसाधारण जनता को इस इशतहार द्वारा सूचित किया जाता है कि यदि किसी व्यक्ति को कोई उजर या एतराज हो तो वह दिनांक 29-9-2009 को सुबह 10.00 बजे असालतन या वकालतन इस कार्यालय में हाजिर हो अन्यथा गैर-हाजरी की सूरत में कार्यवाही एकतरफा अमल में लाई जावेगी।

आज दिनांक 27-8-2009 को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

नागेशवर दत्त,
कार्यकारी दण्डाधिकारी जोगिन्दरनगर,
जिला मण्डी, (हि0 प्र0)।

ब अदालत डी0 के0 रत्न, मैरिज एवं उप-दण्डाधिकारी जोगिन्दर नगर, जिला मण्डी, हिमाचल प्रदेश

ब मुकद्दमा :

सुनिल पठानिया पुत्र श्री मनोहर सिंह, निवासी गांव कमेहड, डा0 चलहांरग, तहसील जोगिन्दर नगर, जिला मण्डी, हिमाचल प्रदेश . . पति।

शिवाली पठानिया पत्नी श्री सुनिल पठानिया पुत्र श्री मनोहर सिंह, निवासी गांव कमेहड, डा0 चलहांरग, तहसील जोगिन्दर नगर, जिला मण्डी, हिमाचल प्रदेश . . पत्नी।

बनाम

आम जनता

. . Respondent.

दरखास्त जेर धारा 15 चैपटर-111 स्पैशल मैरिज ऐक्ट, 1954 के अन्तर्गत विवाह पंजीकरण बारे।

उपरोक्त मुकद्दमा में श्री सुनिल पठानिया व शिवाली पठानिया ने इस न्यायालय में प्रार्थना-पत्र पेश किया है कि उन्होंने 29-10-2008 को गांव कस, तहसील जोगिन्दर नगर में हिन्दू रिती रिवाज के अनुसार शादी कर ली है। तब से वह पति-पत्नी के रूप में रह रहे हैं अतः जेर धारा 15 चैपटर 111 स्पैशल मैरिज ऐक्ट 1954 के अन्तर्गत उनका विवाह पंजीकृत किया जावे। अतः आम जनता व उनके रिश्तेदारों माता-पिता का इस इश्तहार द्वारा सूचित किया जाता है कि यदि किसी भी व्यक्ति को इस बारा कोई उजर व एतराज हो तो वह दिनांक 12-10-2009 दोपहर 2.00 बजे या इससे पूर्व असालतन या वकालतन हाजर अदालत होकर पेश करें अन्यथा एकतरफा कार्यवाही अमल में लाई जाकर शादी पंजीकरण प्रमाण-पत्र जारी कर दिया जावेगा। मथा बाद में कोई भी उजर काबले समायत न होगा।

आज दिनांक 26-8-2009 को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

डी0 के0 रत्न,
मैरिज एवं उप-दण्डाधिकारी, जोगिन्दर नगर,
जिला मण्डी, हिमाचल प्रदेश।

ब अदालत श्री धर्म सिंह कायथ, कार्यकारी दण्डाधिकारी, चौपाल, जिला शिमला, हिमाचल प्रदेश

ब मुकद्दमा :

श्री सीता राम पुत्र श्री झुखरू, ग्राम भुनी, परगना बाहल, तहसील चौपाल, जिला शिमला, हिमाचल प्रदेश।

बनाम

आम जनता

विषय.—प्रार्थना-पत्र अधीन (धारा) 40/41 किए जाने पंजीकृत वसीयत नामा।

प्रार्थी श्री सीता राम पुत्र स्व0 श्री झुखरू, ग्राम भुनी, परगना बाहल, तहसील चौपाल, जिला शिमला, हिमाचल प्रदेश ने इस न्यायालय में एक वसीयत नामा गुजारा है जो मतौफी श्री झुखरू राम ने तहरीर करवाया है। जिसे पंजीकृत करने हेतु प्रार्थना-पत्र दिया है। वसीसतकर्ता दिनांक 12-12-2006 को स्वर्ग सिधार चुका है।

अतः सर्वसाधारण को इस इश्तहार द्वारा सूचित किया जाता है कि यदि किसी व्यक्ति व रिश्तेदार को उक्त वसीयत पंजीकृत होने में कोई आपत्ति हो तो वह असालतन या वकालतन दिनांक 29-9-2009 को प्रातः 10.00 बजे इस न्यायालय में पेश करे। उपस्थित न होने की सूरत में कार्यवाही एकपक्षीय अमल में लाई जावेगी।

आज दिनांक 20-8-2009 को मेरे हस्ताक्षर व मोहर अदालत से जारी किया गया।

मोहर।

धर्म सिंह कायथ,
कार्यकारी दण्डाधिकारी चौपाल,
जिला शिमला, हिमाचल प्रदेश।

ब अदालत श्री धर्म सिंह कायथ, कार्यकारी दण्डाधिकारी, चौपाल, जिला शिमला, हिमाचल प्रदेश

ब मुकद्दमा :

श्री भगत राम पुत्र श्री रतीया, ग्राम व पी0 ओ0 मड़ावग, परगना पुन्दर, तहसील चौपाल, जिला शिमला, हिमाचल प्रदेश।

बनाम

आम जनता

विषय.—प्रार्थना—पत्र अधीन धारा 40/41 किए जाने पंजीकृत वसीयत नामा।

प्रार्थी श्री भगत राम पुत्र श्री रतीया, ग्राम व पी0 ओ0 मड़ावग, परगना पुन्दर, तहसील चौपाल ने इस न्यायालय में वसीयत नामा गुजारा है जो मतौफी श्री रतीया राम ने तहरीर करवाया है। जिसे पंजीकृत करने हेतु प्रार्थना—पत्र दिया है। वसीसतकर्ता दिनांक 18-1-2008 को स्वर्ग सिधार चुका है।

अतः सर्वसाधारण को इस इश्तहार द्वारा सूचित किया जाता है कि यदि किसी व्यक्ति व रिश्तेदार को उक्त वसीयत पंजीकृत होने में कोई आपत्ति हो तो वह असालतन या वकालतन दिनांक 29-9-2009 को प्रातः 10.00 बजे इस न्यायालय में पेश करे। उपस्थित न होने की सूरत में कार्यवाही एकपक्षीय अमल में लाई जावेगी।

आज दिनांक 20-8-2009 को मेरे हस्ताक्षर व मोहर अदालत से जारी किया गया।

मोहर।

धर्म सिंह कायथ,
कार्यकारी दण्डाधिकारी चौपाल,
जिला शिमला, हिमाचल प्रदेश।

ब अदालत श्री बलवीर ठाकुर, उप—मण्डल दण्डाधिकारी, अर्की, जिला सोलन, हिमाचल प्रदेश

श्री जगत राम पुत्र श्री बसन्त राम, निवासी ग्राम कोलका, डा0 दानोघाट, तहसील अर्की, जिला सोलन, हिमाचल प्रदेश वादी।

बनाम

आम जनता

प्रतिवादी।

नाम व जन्म तिथि दर्ज करवाने बारे इश्तहार।

श्री जगत राम उपरोक्त ने इस अदालत में प्रार्थना—पत्र दिया है कि उसकी पुत्री आलिशा का जन्म दिनांक 9-7-2006 को उनके घर पर हुआ था लेकिन गलती से उसका नाम व जन्म तिथि पंचायत अभिलेख में दर्ज नहीं करवा सके जिसे अब दर्ज करवाना चाहते हैं।

अतः इस इश्तहार द्वारा आम जनता को सूचित किया जाता है कि यदि इस पंजीकरण बारे किसी भी व्यक्ति को कोई आपत्ति हो तो वह दिनांक 25-9-2009 को प्रातः 10.00 बजे असालतन या वकालतन हाजिर होकर अपनी आपत्ति पेश करें अन्यथा जन्म तिथि व नाम नियमानुसार दर्ज करने के आदेश पारित कर दिए जाएंगे।

आज दिनांक 19-8-2009 को हमारे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

बलवीर ठाकुर,
उप-मण्डल दण्डाधिकारी,
अर्की, जिला सोलन, हिमाचल प्रदेश।

ब अदालत श्री बलवीर ठाकुर, उप-मण्डल दण्डाधिकारी, अर्की, जिला सोलन, हिमाचल प्रदेश

श्री हेम राज पुत्र श्री बसन्त राम, निवासी ग्राम कोलका, डा0 दानोघाट, तहसील अर्की, जिला सोलन,
हिमाचल प्रदेश वादी।

बनाम

आम जनता

प्रतिवादी।

नाम व जन्म की तिथि दर्ज करवाने बारे इशतहार।

श्री हेम राज उपरोक्त ने इस अदालत में प्रार्थना-पत्र दिया है कि उसके पुत्र हिमांशु वर्मा का जन्म दिनांक 8-7-2005 को उनके घर पर हुआ था लेकिन गलती से उसका नाम व जन्म तिथि पंचायत अभिलेख में दर्ज नहीं करवा सके जिसे अब दर्ज करवाना चाहते हैं।

अतः इस इशतहार द्वारा आम जनता को सूचित किया जाता है कि यदि इस पंजीकरण बारे किसी भी व्यक्ति को कोई आपत्ति हो तो वह दिनांक 25-9-2009 को प्रातः 10.00 बजे असालतन या वकालतन हाजिर होकर अपनी आपत्ति पेश करें अन्यथा जन्म तिथि व नाम नियमानुसार दर्ज करने के आदेश पारित कर दिए जाएंगे।

आज दिनांक 19-8-2009 को हमारे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

बलवीर ठाकुर,
उप-मण्डल दण्डाधिकारी,
अर्की, जिला सोलन, हिमाचल प्रदेश।

ब अदालत श्री बलवीर ठाकुर, उप-मण्डल दण्डाधिकारी, अर्की, जिला सोलन, हिमाचल प्रदेश

श्री जय प्रकाश पुत्र श्री धनपत राम, निवासी ग्राम कोलका, डा0 दानोघाट, तहसील अर्की, जिला सोलन, हिमाचल प्रदेश वादी।

बनाम

आम जनता

प्रतिवादी।

नाम व जन्म तिथि दर्ज करवाने बारे इशतहार।

श्री जय प्रकाश उपरोक्त ने इस अदालत में प्रार्थना-पत्र दिया है कि उसके पुत्र परीक्षित का जन्म दिनांक 18-5-2005 को उनके घर पर हुआ था लेकिन गलती से उसका नाम व जन्म तिथि पंचायत अभिलेख में दर्ज नहीं करवा सके जिसे अब दर्ज करवाना चाहते हैं।

अतः इस इशतहार द्वारा आम जनता को सूचित किया जाता है कि यदि इस पंजीकरण बारे किसी भी व्यक्ति को कोई आपत्ति हो तो वह दिनांक 25-9-2009 को प्रातः 10.00 बजे असालतन या वकालतन हाजिर होकर अपनी आपत्ति पेश करें अन्यथा जन्म तिथि व नाम नियमानुसार दर्ज करने के आदेश पारित कर दिए जाएंगे।

आज दिनांक 19-8-2009 को हमारे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

बलवीर ठाकुर,
उप-मण्डल दण्डाधिकारी,
अर्की, जिला सोलन, हिमाचल प्रदेश।

ब अदालत श्री बलवीर ठाकुर, उप-मण्डल दण्डाधिकारी, अर्की, जिला सोलन, हिमाचल प्रदेश

श्री राज कुमार पुत्र श्री रोडा राम, निवासी ग्राम ज्यावला, डा0 खरड़हट्टी, तहसील अर्की, जिला सोलन, हिमाचल प्रदेश
... वादी।

बनाम

आम जनता

... प्रतिवादी।

नाम व जन्म तिथि दर्ज करवाने बारे इशतहार।

प्रार्थी उपरोक्त ने इस अदालत में प्रार्थना-पत्र दिया है कि उसके दो बच्चे हैं एक पुत्री भावना व एक पुत्र करण कुमार जिनके नाम पंचायत अभिलेख में दर्ज नहीं हैं। अतः अब वह उन दोनों का नाम पंचायत अभिलेख में दर्ज करवाना चाहता है।

अतः इस इशतहार द्वारा आम जनता को सूचित किया जाता है कि यदि इस बारे किसी को कोई आपत्ति हो तो वह दिनांक 30-9-2009 को प्रातः 10.00 बजे असालतन या वकालतन उपस्थित आकर प्रस्तुत कर सकता है निश्चित अवधि के भीतर कोई आपत्ति प्राप्त न होने पर श्री राज कुमार के उपरोक्त पुत्र व पुत्री का नाम पंचायत अभिलेख में दर्ज करने बारे आवश्यक कार्यवाही नियमानुसार कर दी जाएगी।

आज दिनांक 31-8-2009 को हमारे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

बलवीर ठाकुर,
उप-मण्डल दण्डाधिकारी,
अर्की, जिला सोलन, हिमाचल प्रदेश।

ब अदालत श्री सुरिन्द्र कुमार शर्मा, नायब तहसीलदार एवं सहायक समाहर्ता द्वितीय श्रेणी, भरवाई, जिला ऊना, हिमाचल प्रदेश

श्री राजेश कुमार पुत्र श्री चन्दू लाल, गांव कोटली, सब-तहसील भरवाई, जिला ऊना।

बनाम

आम जनता

प्रार्थना-पत्र नाम दुरुस्ती बारे।

उपरोक्त मुकद्दमा में श्री राजेश कुमार पुत्र श्री चन्दू लाल, गांव कोटली ने इस अदालत में प्रार्थन-पत्र पेश किया है कि खाता नं० 85 और 87 नकल जमाबन्दी साल 2007-08, गांव कोटली में राजेश कुमार की बजाए राकेश कुमार गलती से दर्ज चला आ रहा है।

इसलिए प्रार्थी प्रार्थना करता है कि मेरा नाम राकेश कुमार की बजाए राजेश कुमार जमाबन्दी साल 2007-08 की खाता नं० 85 ता 87, महाल कोटली में दुरुस्त किया जाए।

अतः इस इशतहार के माध्यम से सूचित किया जाता है कि किसी व्यक्ति को इस नाम की दुरुस्ती करने में कोई एतराज हो तो वह दिनांक 30-9-2009 को प्रातः 10.00 बजे या इससे पूर्व असालतन या वकालतन अदालत हजा में हाजिर आकर या पेश होकर एतराज कर सकता है। हाजर न होने की सूरत में एक तरफा कार्यवाही अमल में लाई जाकर नाम की दुरुस्ती का आदेश पारित कर दिया जाएगा।

आज दिनांक 29-8-2009 को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

सुरिन्द्र कुमार शर्मा,
नायब तहसीलदार एवं सहायक समाहर्ता द्वितीय श्रेणी,
भरवाई, जिला ऊना, हिमाचल प्रदेश।